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U. S. DEPARTMENT OF AGRICULTURE
BUREAU OF CHEMISTRY
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THE FOOD AND DRUG MANUAL

Instructions to Officials, Analysts, and Inspectors of the Bureau of Chemistry Relating to Procedure for the Enforcement of the Food and Drugs Act of June 30, 1906

EFFECTIVE FEBRUARY, 1920

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LETTER OF SUBMITTAL.

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF CHEMISTRY,
Washington, D. C., March 10, 1919.

SIR: In accordance with your instructions, the undersigned committee submits a draft of a Food and Drug Manual which gives complete instructions regarding the procedure to be followed by officials, analysts, and inspectors of the Bureau of Chemistry in the enforcement of the Food and Drugs Act of June 30, 1906. As the Bureau has been reorganized and the procedure entirely changed since a previous manual was issued in 1911, the need for a revised manual is apparent.

The committee gratefully acknowledges the assistance rendered by the various members of the Bureau who have cooperated in this work. Acknowledgment is especially due A. F. Seeker, Chief of the New York Station, for his effective assistance on the section relating to imports.

It is recommended that this manual be published for the guidance of the members of the Bureau of Chemistry engaged in any phase of the work relating to the enforcement of the Food and Drugs Act.

Respectfully submitted.

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FOOD AND DRUG MANUAL.

PART I.—THE FEDERAL FOOD AND DRUGS ACT AND ITS ENFORCEMENT.

THE FEDERAL FOOD AND DRUGS ACT.

1. Text of the Act and references.—The original Act, approved June 30, 1906, is found in 34 Stat. 768; U. S. Comp. Stat. 1901, Supp. 1911. The Sherley Amendment, regarding therapeutic claims, approved August 23, 1912, is found in 37 Stat., 416, C. 352, and is incorporated in the following text, section 8, under "In case of drugs: Third." The Gould Amendment, regarding quantity of contents, approved March 3, 1913, is found in 37 Stat., 732, C. 118, and is incorporated in the following text, section 8, under "In the case of food: Third." The wrapped meat provision, approved July 24, 1919, is in the Act making appropriations for the Department of Agriculture for the fiscal year 1920 (Public No. 22, 66th Congress).

2. Penalties for violation.—*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That it shall be unlawful for any person to manufacture within any Territory or the District of Columbia any article of food or drug which is adulterated or misbranded, within the meaning of this Act; and any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and for each offense shall, upon conviction thereof, be fined not to exceed five hundred dollars or shall be sentenced to one year's imprisonment, or both such fine and imprisonment, in the discretion of the court, and for each subsequent offense and conviction thereof shall be fined not less than one thousand dollars or sentenced to one year's imprisonment, or both such fine and imprisonment, in the discretion of the court.

SEC. 2. That the introduction into any State or Territory or the District of Columbia from any other State or Territory or the District of Columbia, or from any foreign country, or shipment to any foreign country of any article of food or drugs which is adulterated or misbranded, within the meaning of this Act, is hereby prohibited; and any person who shall ship or deliver for shipment from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, or to a foreign country, or who shall receive in any State or Territory or the District of Columbia from any other State or Territory or the District of Columbia, or foreign country, and having so received, shall deliver, in original unbroken packages, for pay or otherwise, or offer to deliver to any other person, any such article so adulterated or misbranded within the meaning of this Act, or any person who shall sell or offer for sale in the District of Columbia or the Territories of the United States any such adulterated or misbranded foods or drugs, or export or offer to export the same to any foreign country, shall be guilty of a misdemeanor, and for such offense be fined not exceeding two hundred dollars for the first offense, and upon

conviction for each subsequent offense not exceeding three hundred dollars or be imprisoned not exceeding one year, or both, in the discretion of the court: *Provided*, That no article shall be deemed misbranded or adulterated within the provisions of this Act when intended for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is intended to be shipped; but if said article shall be in fact sold or offered for sale for domestic use or consumption, then this proviso shall not exempt said article from the operation of any of the other provisions of this Act.

3. Authorizes rules and regulations.—SEC. 3. That the Secretary of the Treasury, the Secretary of Agriculture, and the Secretary of Commerce and Labor shall make uniform rules and regulations for carrying out the provisions of this Act, including the collection and examination of specimens of foods and drugs manufactured or offered for sale in the District of Columbia, or in any Territory of the United States, or which shall be offered for sale in unbroken packages in any State other than that in which they shall have been respectively manufactured or produced, or which shall be received from any foreign country, or intended for shipment to any foreign country, or which may be submitted for examination by the chief health, food, or drug officer of any State, Territory, or the District of Columbia, or at any domestic or foreign port through which such product is offered for interstate commerce, or for export or import between the United States and any foreign port or country. (For rules and regulations see Office of the Secretary Circular 21.)

4. Examination under supervision of Bureau of Chemistry. Hearings.—SEC. 4. That the examinations of specimens of foods and drugs shall be made in the Bureau of Chemistry of the Department of Agriculture, or under the direction and supervision of such Bureau, for the purpose of determining from such examinations whether such articles are adulterated or misbranded within the meaning of this Act; and if it shall appear from any such examination that any of such specimens is adulterated or misbranded within the meaning of this Act, the Secretary of Agriculture shall cause notice thereof to be given to the party from whom such sample was obtained. Any party so notified shall be given an opportunity to be heard, under such rules and regulations as may be prescribed as aforesaid, and if it appears that any of the provisions of this Act have been violated by such party, then the Secretary of Agriculture shall at once certify the facts to the proper United States district attorney, with a copy of the results of the analysis or the examination of such article duly authenticated by the analyst or officer making such examination, under the oath of such officer. After judgment of the court, notice shall be given by publication in such manner as may be prescribed by the rules and regulations aforesaid.

5. District attorney to proceed on evidence furnished by Department of Agriculture or State health and food officials.—SEC. 5. That it shall be the duty of each district attorney to whom the Secretary of Agriculture shall report any violation of this Act, or to whom any health or food or drug officer or agent of any State, Territory, or the District of Columbia shall present satisfactory evidence of any such violation, to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay, for the enforcement of the penalties as in such case herein provided.

6. "Food" and "drug" defined.—SEC. 6. That the term "drug," as used in this Act, shall include all medicines and preparations recognized in the United States Pharmacopœia or National Formulary for internal or external use, and

any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of either man or other animals. The term "food," as used herein, shall include all articles used for food, drink, confectionery, or condiment by man or other animals, whether simple, mixed, or compound.

7. "Adulteration" defined.—SEC. 7. That for the purposes of this Act an article shall be deemed to be adulterated:

In case of drugs:

First. If, when a drug is sold under or by a name recognized in the United States Pharmacopœia or National Formulary, it differs from the standard of strength, quality, or purity, as determined by the test laid down in the United States Pharmacopœia or National Formulary official at the time of investigation: *Provided*, That no drug defined in the United States Pharmacopœia or National Formulary shall be deemed to be adulterated under this provision if the standard of strength, quality, or purity be plainly stated upon the bottle, box, or other container thereof although the standard may differ from that determined by the test laid down in the United States Pharmacopœia or National Formulary.

Second. If its strength or purity fall below the professed standard or quality under which it is sold.

In the case of confectionery:

If it contain terra alba, barytes, talc, chrome yellow, or other mineral substance or poisonous color or flavor, or other ingredient deleterious or detrimental to health, or any vinous, malt, or spirituous liquor or compound or narcotic drug.

In the case of food:

First. If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

Second. If any substance has been substituted wholly or in part for the article.

Third. If any valuable constituent of the article has been wholly or in part abstracted.

Fourth. If it be mixed, colored, powdered, coated, or stained in a manner whereby damage or inferiority is concealed.

Fifth. If it contain any added poisonous or other added deleterious ingredient which may render such article injurious to health: *Provided*, That when in the preparation of food products for shipment they are preserved by any external application applied in such manner that the preservative is necessarily removed mechanically, or by maceration in water, or otherwise, and directions for the removal of said preservative shall be printed on the covering or the package, the provisions of this Act shall be construed as applying only when said products are ready for consumption.

Sixth. If it consists in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter.

8. "Misbranding" defined, therapeutic claims, and quantity of contents.—SEC. 8. That the term "misbranded," as used herein, shall apply to all drugs, or articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular, and to any food or drug product

which is falsely branded as to the State, Territory, or country in which it is manufactured or produced.

That for the purposes of this Act an article shall also be deemed to be misbranded:

In case of drugs:

First. If it be an imitation of or offered for sale under the name of another article.

Second. If the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or if the package fail to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilide, or any derivative or preparation of any such substances contained therein.

Third.[1] If its package or label shall bear or contain any statement, design, or device regarding the curative or therapeutic effect of such article or any of the ingredients or substances contained therein, which is false and fraudulent.

In the case of food:

First. If it be an imitation of or offered for sale under the distinctive name of another article.

Second. If it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package, or if it fail to bear a statement on the label of the quantity or proportion of any morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilide, or any derivative or preparation of any such substances contained therein.

Third.[2] If in package form,[3] the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count: *Provided, however,* That reasonable variations shall be permitted, and tolerances and also exemptions as to small packages shall be established by rules and regulations made in accordance with the provisions of section 3 of this Act.

Fourth. If the package containing it or its label shall bear any statement, design, or device regarding the ingredients or the substances contained therein, which statement, design, or device shall be false or misleading in any particular: *Provided,* That an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases:

First. In the case of mixtures or compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced.

Second. In the case of articles labeled, branded, or tagged so as to plainly indicate that they are compounds, imitations, or blends, and the word "compound," "imitation," or "blend," as the case may be, is plainly stated on the package in which it is offered for sale: *Provided,* That the term blend as used herein shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only: *And provided further,* That nothing in this Act shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredient to disclose

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[1] Sherley Amendment. [2] Net Weight Amendment. [3] Includes wrapped meat.

their trade formulas, except in so far as the provisions of this Act may require to secure freedom from adulteration or misbranding.

9. Guaranty.—SEC. 9. That no dealer shall be prosecuted under the provisions of this Act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party residing in the United States, from whom he purchases such articles, to the effect that the same is not adulterated or misbranded within the meaning of this Act, designating it. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines, and other penalties which would attach, in due course, to the dealer under the provisions of this Act.

10. Seizures.—SEC. 10. That any article of food, drug, or liquor that is adulterated or misbranded, within the meaning of this Act, and is being transported from one State, Territory, District, or insular possession to another for sale, or, having been transported, remains unloaded, unsold, or in original unbroken packages, or if it be sold or offered for sale in the District of Columbia or the Territories, or insular possessions of the United States, or if it be imported from a foreign country for sale, or if it is intended for export to a foreign country, shall be liable to be proceeded against in any district court of the United States within the district where the same is found, and seized for confiscation by a process of libel for condemnation. And if such article is condemned as being adulterated or misbranded, or of a poisonous or deleterious character, within the meaning of this Act, the same shall be disposed of by destruction or sale, as the said court may direct, and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the Treasury of the United States, but such goods shall not be sold in any jurisdiction contrary to the provisions of this Act or the laws of that jurisdiction: *Provided, however*, That upon the payment of the costs of such libel proceedings and the execution and delivery of a good and sufficient bond to the effect that such articles shall not be sold or otherwise disposed of contrary to the provisions of this Act, or the laws of any State, Territory, District, or insular possession, the court may by order direct that such articles be delivered to the owner thereof. The proceedings of such libel cases shall conform, as near as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any such case, and all such proceedings shall be at the suit of and in the name of the United States.

11. Imports.—SEC. 11. The Secretary of the Treasury shall deliver to the Secretary of Agriculture, upon his request from time to time, samples of foods and drugs which are being imported into the United States or offered for import, giving notice thereof to the owner or consignee, who may appear before the Secretary of Agriculture, and have the right to introduce testimony, and if it appear from the examination of such samples that any article of food or drug offered to be imported into the United States is adulterated or misbranded within the meaning of this Act, or is otherwise dangerous to the health of the people of the United States, or is of a kind forbidden entry into, or forbidden to be sold or restricted in sale in the country in which it is made or from which it is exported, or is otherwise falsely labeled in any respect, the said article shall be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any goods refused delivery which shall not be exported by the consignee within three months from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe: *Provided*, That the Secretary of the Treasury may deliver to the consignee such goods pending examination and decision in the matter on execution of a penal bond for the amount of the full invoice value

of such goods, together with the duty thereon, and on refusal to return such goods for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of the bond: *And provided further*, That all charges for storage, cartage, and labor on goods which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

12. "Territory" and "person" defined.—SEC. 12. That the term "Territory" as used in this Act shall include the insular possessions of the United States. The word "person" as used in this Act shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, companies, societies, and associations. When construing and enforcing the provisions of this Act, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society, or association as well as that of the person.

13. Date effective.—SEC. 13. That this Act shall be in force and effect from and after the first day of January, nineteen hundred and seven.

Approved June 30, 1906.

ENFORCEMENT OF THE ACT.

14. Purpose of the manual.—This manual includes a general outline of, and detailed instructions pertaining to, the procedure in enforcing the Federal Food and Drugs Act of June 30, 1906. It is intended to serve as a book of instructions for employees of the Bureau of Chemistry, and as a book of reference for all Federal, State, or city food and drug inspectors, analysts, and administrative officials who may be concerned with the detailed procedure in developing prosecutions and seizures and handling imported foods and drugs under the Act. It is supplemental to the Act, to the rules and regulations based thereon which are published in Office of the Secretary Circular 21, and to the opinions and decisions published in the Service and Regulatory Announcements and Supplements. Employees are expected to be familiar with these basic publications before taking up the study of this manual.

15. Actions authorized by the Act.—The Federal Food and Drugs Act is designed to prevent the importation, the shipment in interstate or foreign commerce, or the manufacture and sale in any Territory or the District of Columbia of adulterated or misbranded foods or drugs. Three forms of action are provided by the Act: (1) Persons who violate the provisions of the law may be prosecuted criminally (sections 1 and 2); (2) goods which are shipped or offered for sale in violation of the terms of the law may be seized under certain conditions (section 10); (3) foods or drugs offered for import into the United States may be denied entry if adulterated or misbranded within the meaning of the Act, or if they are otherwise dangerous to the health of the people of the United States, or if they are of a kind forbidden to be sold or restricted in sale in the country in which made or from which exported (section 11). The nature of the evidence required and the procedure to be followed differ materially, according to the form of action to be taken.

16. Collection of evidence under the Act.—The Bureau of Chemistry of the United States Department of Agriculture and State health and food officials are charged with collecting the necessary evidence on which to base actions. Procedure for collecting, examining, and reporting samples, and for securing and reporting evidence is outlined in the following pages.

PART II.—ORGANIZATION AND DUTIES OF ADMINISTRATIVE FORCE.

ORGANIZATION.

17. Organization units charged with enforcement of the Act.—The Secretary of the Treasury, the Secretary of Agriculture, and the Secretary of Commerce are charged with the duty of making uniform rules and regulations for carrying out the provisions of the Act. The Secretary of Agriculture is charged with the enforcement of the Act. The Act specifies that examination of specimens of foods and drugs by the United States Department of Agriculture shall be made in the Bureau of Chemistry, or under its supervision, and the Secretary of Agriculture has charged the Bureau of Chemistry with the responsibility of making scientific investigations and of studying trade conditions in order to develop data upon which to base administrative decisions and policies, and to collect evidence of violations of the Act. The appropriation for the enforcement of the Act is made to the Bureau of Chemistry. The Solicitor of the Department of Agriculture is charged by the Secretary of Agriculture with the duty of preparing cases for transmission to the Department of Justice, and of passing upon the legal questions arising in the enforcement of the Act.

18. Bureau of Chemistry functional organization.—The Bureau of Chemistry, having three primary functions to perform in the enforcement of the Act, has been organized with the view to performing these functions in the most efficient and economical manner.

The 3 functions consist of administration, investigational work on which to base administrative decisions and policies, and the executive work involved in securing evidence on which to base proceedings under the Act. These functions have led to the formation of 3 types of organization units: (*a*) The offices of the Chief and Assistant Chief of the Bureau which do the administrative work; (*b*) the staff laboratories and offices in Washington which conduct scientific investigations and develop data on which to base administrative decisions and policies; (*c*) the Eastern, Central, and Western Inspection Districts, which execute policies in enforcing the Act. The districts are further subdivided into inspection territories, with a station headquarters at an important trade center and port of entry within each inspection territory.

The staff laboratories and offices in Washington engaged in Food and Drugs Act work are as follows: Cooperation, Drug Administration, Food Control, Microbiological, Microchemical, Pharmacognosy, Cattle Food, and Water. The staff laboratories also conduct research projects not relating directly to the enforcement of the Food and Drugs Act. The following laboratories are engaged primarily on research and extension work not connected directly with the enforcement of the Food and Drugs Act: Animal Physiological, Carbohydrate, Color, Drug Investigations, Food Investigations, Fruit and Vegetable Utilization, Grain Dust Investigations, Leather and Paper, Miscellaneous, Nitrogen, Oil, Fat, and Wax, Pharmacological, Phytochemical, Plant Chemical,

and Protein Investigations, all in Washington, and the Food Research Laboratory in Philadelphia and Indianapolis, and the Citrus By-Products Laboratory in Los Angeles. The experts in these laboratories occasionally act in an advisory capacity on questions relating to the enforcement of the Food and Drugs Act.

The offices of district chiefs are in New York, Chicago, and San Francisco. The Eastern District stations (fig. 1) are in New York, Buffalo, Boston, Philadelphia, Baltimore, Savannah, and San Juan; the Central District stations (fig. 2), in Chicago, Minneapolis, St. Louis, Cincinnati, New Orleans, and Kansas City; and the Western District stations (fig. 3), in San Francisco, Seattle, and Denver. The stations, under the supervision of the district chiefs, and in cooperation with State and city health, food, and drug officials, have jurisdiction over commerce in foods and drugs in the territory tributary to the cities where the stations are located. While the work of these stations is mainly regulatory, they from time to time engage in the investigation of research problems arising in the course of the regulatory work.

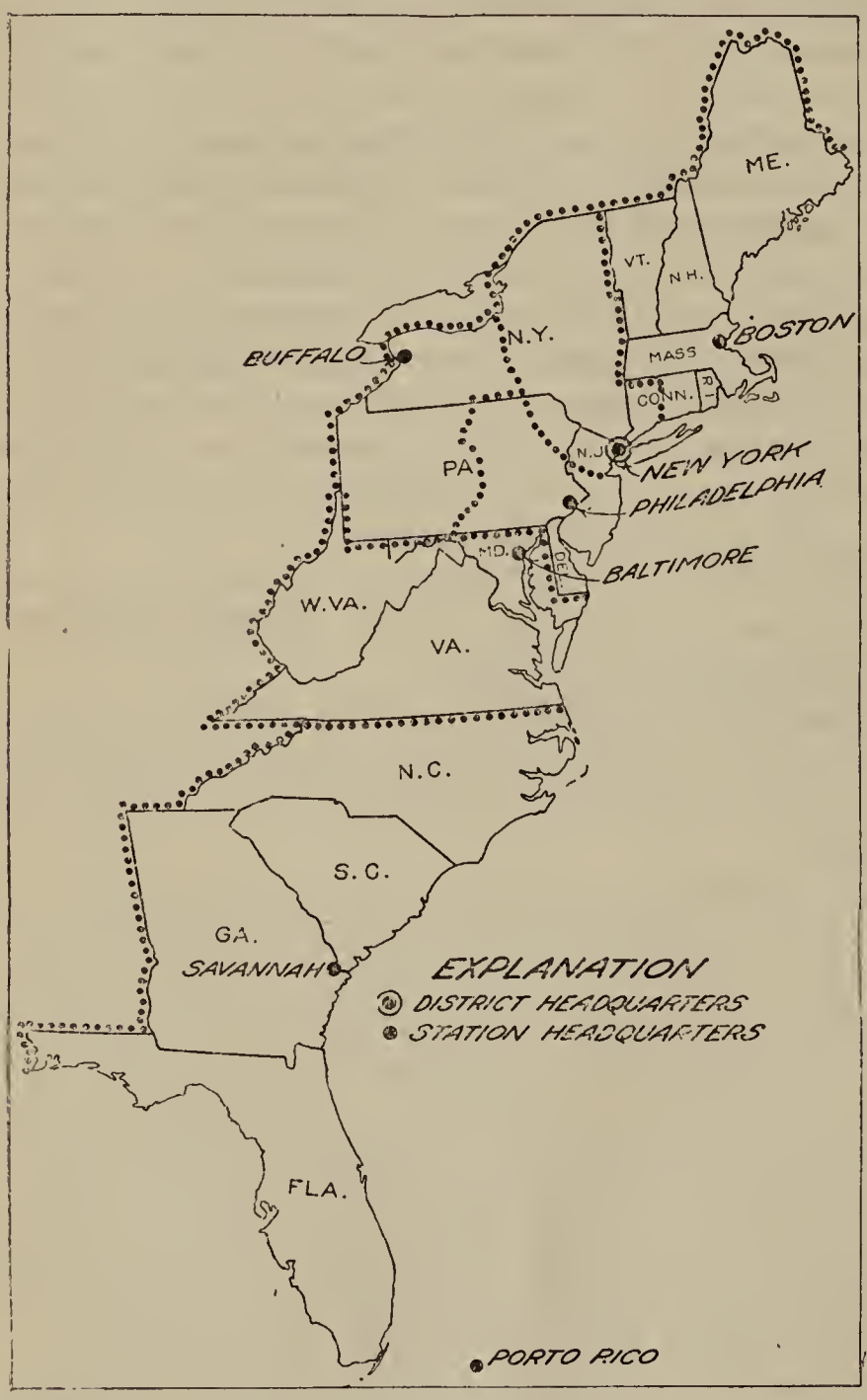

FIG. 1.—Eastern District.

DUTIES OF BUREAU PERSONNEL.

19. The Chief and the Assistant Chief supervise and direct the work of the Bureau; they, with their assistants, select the Bureau personnel, assign and direct research projects, and decide policies of procedure and action on specific cases in the enforcement of the Food and Drugs Act.

20. Staff officers in charge of laboratories and offices in Washington act as staff advisers to the Chief and Assistant Chief of the Bureau in the consideration of specific cases developed by the districts, and recommend methods for attacking regulatory problems in controlling the food or drug products on which they are specialists. They direct investigations to develop fundamental data on which to base regulatory campaigns and policies for the consideration of the Chief and Assistant Chief of the Bureau in the direction of the regulatory work.

21. The staff officer in charge of cooperation develops cooperation among Federal, State, and city food and drug officials, acts as a clearing house of information on subjects relating to food and drug control, and assists in the formulation of definitions and standards.

22. District chiefs are charged with the responsibility of the executive work involved in the enforcement of the Food and Drugs Act in their respective territories. They have general supervision over the personnel and control of the work in their districts.

23. Chief clerks of districts have charge, under the direction of the district chiefs, of all clerical work at district headquarters, have general supervision of all clerical work of the stations within the district, and perform such other

FIG. 2.—Central District.

duties as generally pertain to the position of chief clerk, or which may be assigned to them by the district chiefs.

24. Chiefs of stations, under the direction of the district chiefs, have supervision over the personnel and the food and drug inspection work in the station territory. They direct inspections and investigations, hold hearings, and develop cases under the Food and Drugs Act. They cooperate with district attorneys and with State and city health, food, and drug officials in the enforcement of the Federal and State laws controlling the manufacture and sale of foods and drugs.

25. Analysts, under the direction of station chiefs, analyze and examine samples of foods and drugs, study their composition, develop methods of analysis with a view to detecting adulteration and misbranding, make recommendations as to the action to be taken, and undertake research problems that arise. In some cases this involves the scientific study of manufacturing processes. Analysts serve as witnesses in cases brought to trial.

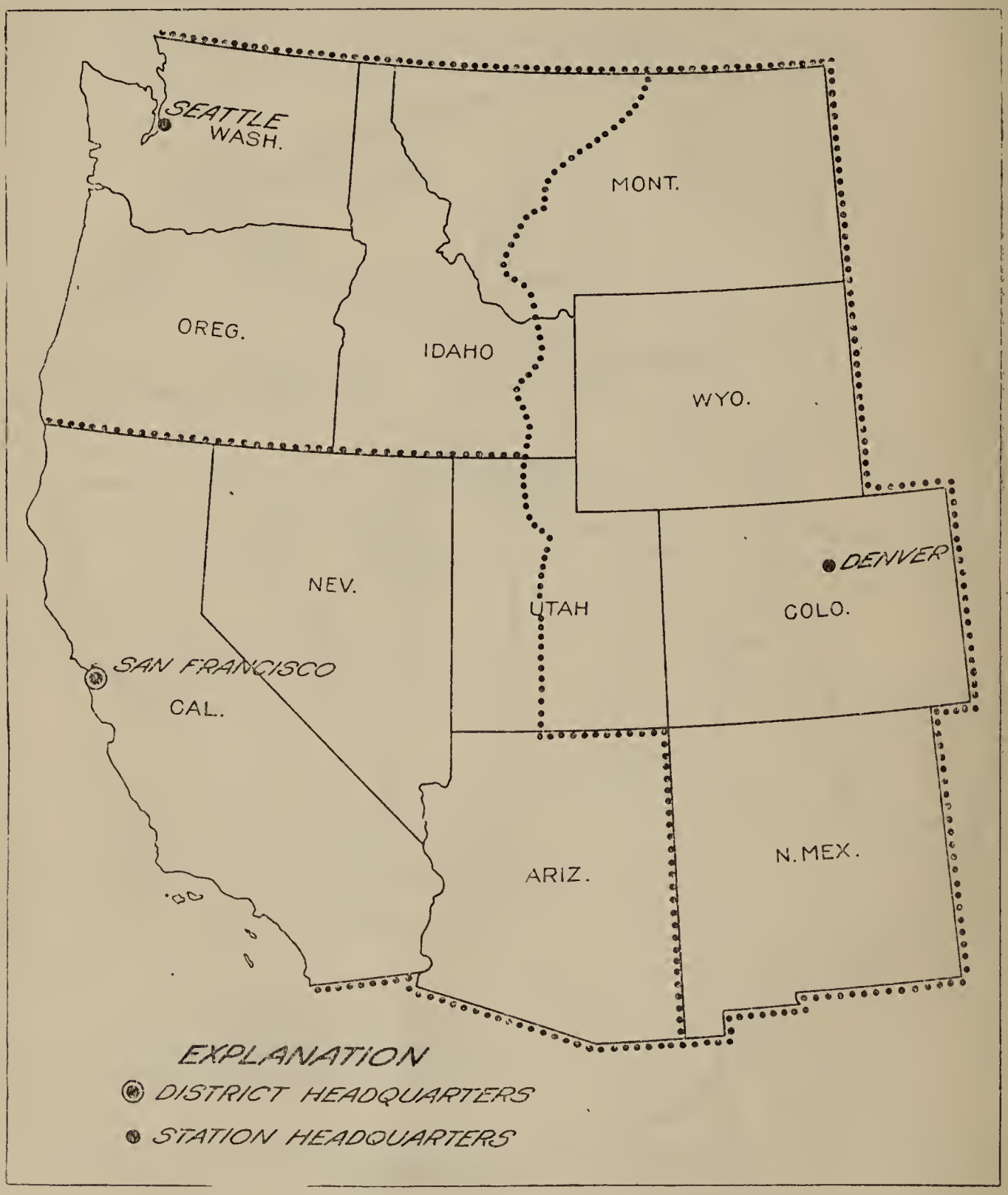

FIG. 3.—Western District.

26. Inspectors, under direction of station chiefs, make factory inspections and field investigations, obtain samples and evidence of interstate shipment, cooperate with the United States attorneys and marshals in effecting seizures, and appear as witnesses in cases instituted to correct violations of the Act. They investigate trade conditions, and maintain general surveillance over the food and drug products manufactured or sold in their station's territory. They keep in close contact with State and city inspectors. As inspectors come in closer contact with the food and drug industries than the other officials of the Bureau, their tact and diplomacy are vital factors in the successful enforcement of the Food and Drugs Act.

PART III.—FACTORY INSPECTION.

27. Method of factory inspection.—Before beginning a factory inspection the inspector should review all information in the station files concerning the plant and its output. Whenever feasible, inspections made as a result of a special request should cover the entire activities of the concern, keeping in mind the particular reasons for the inspection contained in the request. A complete rather than a limited report often obviates the necessity for frequent reinspection when other questions arise concerning the same firm's practices.

In making factory inspections it must be borne in mind that although certain facts are included in all reports, the degree of their importance varies in each case with the class of factory inspected. For example, in milk condensaries and egg-breaking plants sanitation is of prime importance, and in the manufacture of pharmaceuticals the method of control of the quality and quantity of the ingredients used is essential, while in grain elevators the facilities for mixing should be most carefully investigated.

For detailed technical methods of making factory inspections, see the Text Book on Food and Drug Inspection, now in the course of preparation in the Bureau of Chemistry.

28. Proprietary and patent medicine factories.—The necessity of proving that the labeling is not only false but fraudulent sets the Sherley Amendment cases apart from other cases brought under the Federal Food and Drugs Act. Learn the qualifications of the persons exercising control over the formulæ, the preparation, and the arrangement of all printed matter connected with the labeling and distribution of the products. Ascertain the local reputation of the firm, its attitude toward the Food and Drugs Act, the history of its products, and whether there has ever been any revision of the labels or other printed matter. If medical advice is promised prospective purchasers, investigate the method of supplying it, and submit copies of all form letters, symptom blanks, etc., used in the promotion of this feature of the business. The manner of procuring and the use of testimonials should be investigated. Copies of such testimonials as are reproduced for distribution should be submitted with the report. Investigate also the method of advertising, and indicate how and by whom the copy is prepared, and the publications in which the advertisements appear.

29. Distributing agencies to be inspected.—So far as applicable, factory inspection should be made also of distributing agencies. These include transportation terminals and transfer points, warehouses, commission and brokerage concerns, as well as wholesale and retail establishments. Stations should possess definite knowledge of the traffic in all products coming within the scope of the Food and Drugs Act, within their territory.

30. Make inspection reports complete and specific.—Special forms of factory inspection reports covering the different lines of inspection work have been prepared. The reports should be submitted in triplicate, one copy being retained in the station files, and the original and one copy sent to the district office, which in turn forwards one copy to the Chief of the Bureau. Complete answers should be submitted to each of the questions appearing on the report forms, together with any additional information which might be of value. Conditions should

be described fully to enable the reviewing officer to pass intelligently upon the practices of the firm. In preparing these reports the inspector should not estimate conditions simply as being "good," "fair," "bad," etc., but should describe them.

The inspector may increase the value of his report by submitting a brief history of the concern inspected, and a statement as to whether it has been prosecuted previously by State or city officials for violations of food and drug laws or ordinances. If all the information can not be given on the forms provided, supplementary sheets should be attached.

When insanitary conditions are found in or about a factory, photographs should be taken if they will assist materially in illustrating the conditions. These photographs should be properly identified by the inspector, with his initials, the date, and a description of the scene, as it may be necessary to offer them as evidence in court.

31. Submit labels properly identified.—The inspector should submit sets of labels, including copies of stamp impressions or stencils, and any circulars, pamphlets, or advertising matter packed with the goods or furnished to the buyer in connection therewith. All material submitted should be properly identified with the inspector's initials, the date of the inspection, and a notation indicating how, and on what size package, each is used. Special printed matter used only on products intended for export should be so designated and the country of destination given. For quick reference, convenience in handling and filing, and definite identification, labels should be attached permanently to a letter-size sheet of paper upon which an explanation of their use may be written. Small labels should be pasted on. A statement as to how they reach the public should be made in the case of booklets, circulars, etc., which do not accompany the package.

32. Report any change in legal status of manufacturer.—When a firm has changed recently its name or status, a report should be made giving the former name or status. When it is found that a concern is manufacturing products for distribution by itself under various firm names, all the firm names so used should be listed. When a manufacturer is putting up goods for other concerns or an affiliated company, which are shipped unlabeled or in bulk for future packing, all such distributors should be reported, so that the labeling employed may be investigated. If the conditions presented in the initial report are found to be identical upon regular reinspections, a statement to that effect should be submitted in the supplementary factory report; but if changes are noted, they should be shown fully.

33. Consider quantity of shipments in reporting consignees.—In submitting names of interstate consignees of products it is important to report those shipments which are made in sufficient quantity to permit the collection of samples before the goods have been disposed of. When possible, report the date of shipment and routing with consignee's address.

34. Factory inspection forms.—The following forms for reporting factory inspection are provided:

	Form No.
Inspection of Food and Drug Factories (General)	C. 481
Inspection of Dairy Product Factories (Including Creameries)	C. 482
Milk Sample and Herd Inspection Report	C. 483
Milk Inspection Chart (Analytical Data)	C. 484
Sanitary Inspection of Source of Waters	C. 485
Sanitary Inspection of Water Manufacturing Plant	C. 486
Tomato Cannery Report	C. 487
Apple Evaporator Inspection Report	C. 488
Inspections of Oyster Establishments	C. 489

It is the duty of each station to keep on hand a supply of those forms required for use in its territory.

35. Value of reports.—Reports being filed by firm name, reinspection reports constitute the progressive record of the practices of each firm. To be of value, reports must be accurate, and the labels or other printed matter submitted must bear the date of inspection and initials of the inspector.

The reports are invariably consulted when the analysis of any sample of a firm's products is considered, thus assisting the Bureau in arriving at correct conclusions. They are valuable in the district office in answering inquiries from the stations and the other districts regarding a firm's practices or products. When kept up to date they save much correspondence with, and needless work by stations. Likewise, they are of great value in determining products to be sampled, and they materially assist in reducing laboratory work.

PART IV.—INTERSTATE PROCEDURE.

36. Course of a case.—The chart in figure 4 is designed to illustrate graphically each essential step in a case as it progresses through the organization units of the Bureau of Chemistry, the Office of the Solicitor, the Department of Justice, and the courts. Only the essential steps through which each case must pass to final prosecution are shown. Minor steps through which some cases pass, and variations in seizures, cases originated by State officials, and cases which are abated are omitted. The numbers in the text following refer to the numbered lines of the chart.

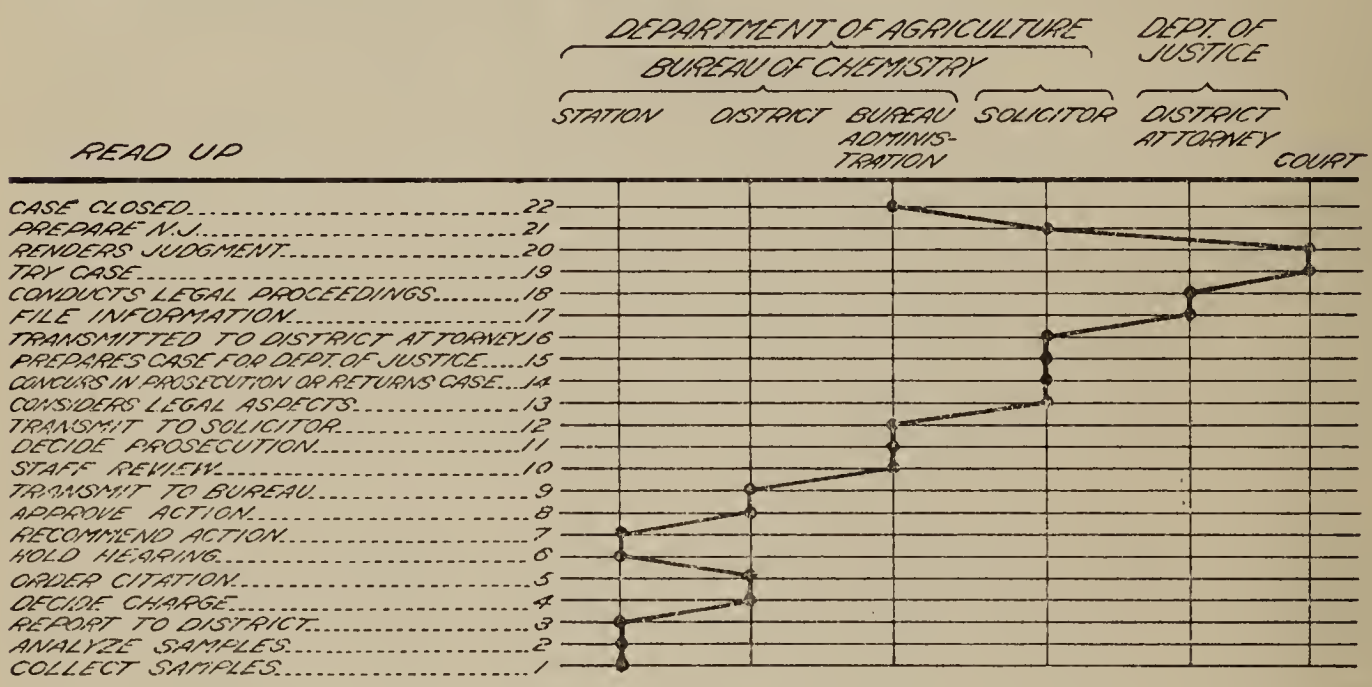

FIG. 4.—Course of a case.

An inspector (1) collects samples of a product deemed in violation, securing records to establish interstate shipment and fix responsibility for the shipment, and forwards the samples to the proper station for analysis. The station laboratory (2) makes an analysis, and (3) the station reports the result, with recommendation for action, to the district chief. The district chief, upon approving the recommendation of the station (4) and the charge, (5) instructs the station to cite upon the charge as approved, and at the same time the district chief reports to the Chief of the Bureau the action taken.

Upon receipt of instructions from the district chief, the station issues citation to the party responsible for the interstate shipment of the product from which the sample was taken and upon which the action is based. The citation sets a date for a hearing. On this date the responsible party (6) reports for an oral hearing, or submits whatever statement he desires to make in writing. After the hearing, the station prepares a summary of the case, and reports it to the district chief, with a (7) recommendation as to the action to be taken.

The district chief considers the recommendation of the station, and either (8) indorses the recommendation or modifies it according to his judgment; then (9) forwards the papers in the case to the Chief of the Bureau with recommendation for the action decided upon as appropriate.

Upon their receipt by the Chief or Assistant Chief of the Bureau, the case is either decided immediately or referred to the (10) staff laboratory or office which specializes on the product involved. After the specialist has approved the recommendation of the district chief for prosecution, the staff expert transmits the case to the Chief and Assistant Chief of the Bureau, indorsing the recommendation of the district chief. The case is thereupon considered by the Office of the Chief and the Assistant Chief for decision (11), and, if prosecution is approved, the case is then (12) transmitted to the Solicitor.

The Solicitor (13) considers the case in its legal aspects, and decides who is liable in connection with the alleged violation and the sufficiency of the evidence to support prosecutions. He (14) concurs in the Bureau's recommendation for prosecution, or returns the case for further consideration, with statement of his views. When the Solicitor concurs in the Bureau's recommendation for prosecution (15), he prepares informations, indictments, and other necessary papers for transmittal to the Department of Justice. Prior to such transmittal he forwards original affidavits for execution, and copies of pleadings to the Bureau for suggestions as to matter of fact that may necessitate change therein. The Bureau procures execution of the affidavits and returns them to the Solicitor, together with any suggestion as to matters of fact set forth in the pleading. The Solicitor (16) forwards the case, through the Secretary's Office, to the Department of Justice for transmittal to the district attorney in the district where the case will be tried. The district attorney files (17) the information or presents the case to the grand jury for indictment, and (18) conducts the legal proceedings. The court (19) tries the case, with or without a jury, and (20) renders judgment, imposing sentence where judgment is "guilty." In not less than 30 days after the termination of the case in court, a notice of judgment, giving the essential facts in the case, (21) is prepared by the Solicitor and published by the Bureau. This terminates the case, and the records (22) are closed.

CLASSIFICATION OF SAMPLES.

37. Two classes of samples.—There are two general classes of samples, investigational and official. For purposes of identification, all samples must be given an appropriate serial number.

38. Investigational samples.—Investigational samples are collected for purposes of general information, and do not serve as the basis for action under the Food and Drugs Act. They may include samples collected during factory inspection, type samples for comparison or study, and samples collected in connection with district investigations. The serial numbers assigned investigational samples are obtained from printed investigational sample collection blanks (forms C. 403, 404, 405). The abbreviation "Inv." always precedes the number. This classification was devised in order that a maximum of investigational work could be accomplished with a minimum amount of clerical work. The investigational sample collection blanks should be filled out and forwarded promptly, C. 403 to district headquarters and C. 404 to the laboratory to which sample is sent, C. 405 being retained in the station files. Certain forms of inspection investigation involve the examination of the samples in the field wherever located without submission to the laboratory. Such samples are known as field inspection samples (paragraph 40).

39. Reporting analysis of investigational samples.—The analysis of single investigational samples should be reported on letter-size sheets according to the following general outline:

STATION REPORT.

Substance_____Date rptd._____Inv. No._____
Label_____
[Give sufficient for definite identification.]
Manufacturer or shipper_____
Dealer_____
Date { shipped / received }_____Am't. on hand_____
Date of collection_____Reasons_____
Sample consisted of_____
Condition of remaining samples_____
Inspector _____Analyst_____
Laboratory results and analyst's conclusions_____

_____,
Analyst.

Recommendations:

_____,
Chief_____Station.

Retaining enough copies of the analytical reports for the station files, the following should be forwarded to district headquarters, which will in turn forward the requisite copies to the proper stations and other districts: When the manufacturer is located in the territory of station reporting sample, 3 copies; when located in another station's territory within the same district, 4 copies; when located in another district, 5 copies.

When a series of samples is collected in connection with an investigation, the analysis should be reported in tabulated form. The tabulation should be part of a full report of the work done, including, besides inspection and analytical data, any pertinent information bearing on the subject.

Investigational samples collected upon request of laboratories in the Bureau in connection with research work should be sent to the laboratory requesting them, with a description or a letter of transmittal. Copies of all correspondence should be in the district files.

40. Field inspection reports.—These include the reports of food and drug products examined by inspectors on freight wharfs, in warehouses, and elsewhere, which are found to comply with the law and of which, therefore, neither official nor investigational samples need be collected. These examinations are always made in the field, thus eliminating all laboratory reports. Stations should, however, include such samples in their monthly progress reports. The inspector's report to the station should be dated and signed, and should include the name of the product, brand, manufacturer or shipper, consignee, the amount of the shipment, where examined, and the conditions noted. After field inspection reports are summarized in the station's monthly progress reports they should be forwarded to the station in whose territory the manufacturer or shipper is located, for filing in the factory report file. A form with headings for the information desired (C. 416) is furnished by the Bureau for these reports.

41. Official samples.—An official sample is collected for the purpose of being used as the basis for action under the Food and Drugs Act. It must, therefore, consist of such portions and be collected in such manner that its identity and

character as representative of an interstate shipment may be established beyond question. The serial numbers given these samples are obtained from printed official sample collection blanks (C. 401, 402). The letters "I. S." preceding official numbers are an abbreviation for "Interstate Sample," while the coefficient letter following the number indicates the fiscal year of collection. A complete report, describing collection, analysis, and action taken, is required on every official sample.

Too much emphasis can not be placed upon the importance of careful work in the identification of the shipment to be sampled, and in the collection, subdivision, sealing, packing, and shipping of the sample to the laboratory. The sample furnishes a basis for all subsequent action, and no effort should be spared to insure freedom from technical errors which might necessitate the abandonment of the action, possibly after much time had been spent and expense incurred in its development. Carelessness is inexcusable.

COLLECTING SAMPLES AND EVIDENCE.

42. Establishing Federal jurisdiction.—The Federal courts have jurisdiction in the District of Columbia and in the Territories. Section 12 of the Act provides "That the term 'Territory' as used in this Act shall include the insular possessions of the United States." Within the States the Federal courts have jurisdiction only over interstate commerce. (See Regulation 3, of the Rules and Regulations, Office of the Secretary Circular 21.) In the case of violations:

Samples collected from a dealer within the District of Columbia or any Territory are competent for the prosecution of that dealer, unless he can establish a guaranty as provided in section 9 of the Act. Proof that he sold or offered the article for sale is necessary.

Samples collected from a dealer wherever located when from stock manufactured within the District of Columbia or any Territory are competent for the prosecution of the manufacturer. Proof of the place of manufacture and of the identity of the manufacturer must be obtained.

Samples collected from the manufacturer within the District of Columbia or within any Territory are competent for the prosecution of that manufacturer. Proof of the identity of the manufacturer is necessary.

Samples from interstate shipments collected within the District of Columbia or any Territory are competent for the prosecution of the shipper unless he can establish a guaranty as provided in section 9 of the Act, and require the same proof of interstate shipment as when the samples are collected within a State.

Samples to be competent for the prosecution of the dealer within a State must be from an interstate shipment, which is not covered by a guaranty as provided by section 9 of the Act; and the samples must have been delivered or offered for delivery in the original unbroken package. Proof that the sample was from an interstate shipment and that it was delivered, "for pay or otherwise," or its delivery offered in the original unbroken packages is essential. This proof necessarily must be secured by the inspector himself, and from sources other than the dealer. One of the competent forms of such proof is the location by the inspector of the consignment in the possession of the interstate carrier, maintaining surveillance over its delivery, and then securing samples as soon as any part of the consignment is offered for sale.

Samples to be competent for the prosecution of an interstate shipper should be from the shipment forming the basis of action. Proof that the party was the shipper or offered to ship, and proof of the time, place, route, and destination of the shipment are necessary.

Shipments from one point in a State to another point in the same State, but passing through another State en route, do not come within the jurisdiction of the Federal Food and Drugs Act.

Samples to be competent for the institution of the prosecution of an exporter should be from the exportation which forms the basis of action. Proof that the

party was the exporter, and proof of the time, place, route, and destination of the exportation are necessary. Attention is called to the fact, however, that in the case of exports the Act provides: "*Provided*, That no article shall be deemed misbranded or adulterated within the provisions of this Act when intended for export to any foreign country and prepared or packed according to the specification or directions of the foreign purchaser when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is intended to be shipped; but if said article shall be in fact sold or offered for sale for domestic use or consumption, then this proviso shall not exempt said article from the operation of any of the other provisions of this Act."

DRAWING SAMPLES.

43. General principles of sampling.—A few general principles for guidance in sampling are stated briefly in this section. Under the heading "Sampling Special Classes of Products" (par. 61–84) more detailed instructions are given for taking bacteriological samples, including a method for sterilizing containers and apparatus in the field when necessary, and taking samples of shell eggs, decomposed products, fresh meat, canned food, stock feed, crude drugs, and products when violations of the Net Weight and Sherley Amendments are alleged. The sampling of products for seizure under section 10 of the Act may vary somewhat from sampling for action under sections 1 and 2 of the Act, as explained in the section relating to seizures (paragraphs 142, 143, 153).

44. Interstate evidence and identification.—The evidence of the interstate character and the identification of the shipment must be positive. Except in unusual instances, old shipments should not be sampled, but the suspected violation should be reported to the station in whose territory the product is manufactured for the location of more recent interstate shipments.

45. Collect original unbroken packages when practicable.—When prosecution is directed against the consignee of an interstate shipment and based on a sample collected from him, the sample must be an original unbroken package. When prosecution is directed against the consignor, which is the usual practice, the sample may be a unit package and not necessarily an original package. It is always advisable, however, to collect an original package when practicable. When it is necessary to collect an original package of large volume as the sample, specific instructions are issued. Where it is impracticable to collect a unit package because of an unnecessarily large quantity of the product involved, as, for example, a barrel of vinegar, portions of one or more unit packages may be withdrawn and submitted, together with a photograph or facsimile of the labeling. Where possible, as in the case of boxes, kegs, large bottles, cartons, etc., the unit package container should be submitted as a portion of the sample to exhibit labeling. When it is impracticable to furnish a unit package containing the label, or a specimen of the label, a photograph, or at least a facsimile tracing, should be submitted. The inspector should consider carefully the purpose of sampling before proceeding with the actual drawing of the sample. He should decide upon what would be a representative sample, and the proper number and form of subdivision, including how the subdivisions should be packaged and sealed.

46. Representative samples.—One of the inspector's first considerations is the manner in which the product is manufactured or produced. This always furnishes a valuable index to the quantity necessary for the analysis and the manner of drawing a representative sample. As an illustration, in the case of tablets, fluid extracts, olive oil, molasses, flavoring extracts, and other products which should be of uniform composition, one package would be as representative as another, while, on the other hand, products like crude drugs,

canned vegetables, stock feed, and nuts in the shell do not always run uniform, making it more satisfactory to have the sample consist of portions taken from a number of packages.

47. Composite samples.—Portions withdrawn from unit packages may, under certain conditions, be mixed, making a composite sample which should be divided into three or more subdivisions for sealing. In the case of a product bearing batch or lot numbers, of which there are two or more in a shipment, under no circumstances is it permissible to mix the portions from the different batch numbers, even though they otherwise bear identical labels. Portions from one batch number are treated as one sample. A representative number of batches should be sampled. When the unit packages consist of the same product, labeled exactly alike, and are all from the same shipment, the portions taken may properly be combined into a composite sample for subdividing (paragraph 49). All packages of food should be examined for a statement of the quantity of contents, and, if declared, the quantity should be determined, if feasible, before sampling. This also applies to drug products if the quantity of contents is declared.

48. Sampling stock of different shipments.—Occasions arise when it is desirable to sample a stock of food or drug products composed of two or more shipments stored indiscriminately, making it impossible to identify the unit packages with a particular shipment. The inspector should assure himself that there is no way to identify the packages before assuming the impossibility of identification. If all the stock can be identified as being from one or more of certain definite shipments, and if products from the various shipments are identical in labeling and description, the inspector should sample under one I. S. number, as though the stock were all one shipment, reporting the facts fully with original or copies of records of all the shipments involved.

SUBDIVIDING THE SAMPLE.

49. Purpose of subdivisions.—One of the purposes for subdividing a sample is that check analysis, when necessary, may be made upon a portion of the sample bearing the inspector's original seal. It frequently happens that the analyst making the original analysis is not available as a witness when the case is called for trial. It is necessary, therefore, that an original subdivision of the sample bearing the inspector's seal be available for examination by another analyst; otherwise, the case necessarily would have to be withdrawn and placed in permanent abeyance. Among other reasons is the desirability of a check analysis as supplementary evidence; or should the original analysis have been made at a laboratory distant from the place of trial, analysis of another sealed subdivision can be made in the laboratory most accessible to the place of trial, saving time and expense for the analyst witness. One subdivision is for delivery upon request to the party cited. This shows the necessity of making at least three subdivisions of a sample available under original seals whenever possible.

50. Guiding principles for subdividing.—The guiding principles in subdividing a sample are:

When samples are subdivided extreme care must be observed to make each portion representative of the original sample. The mixing must be thorough; otherwise, analyses may not check.

That there be at least one subdivision of an amount sufficient for all possible requirements of analysis. The remaining portions, of which there should be two or more, need not necessarily be so large.

Where the cost of the article is not prohibitive, nor the packages too large, a satisfactory method of sampling is to collect enough unit packages to enable the submission of unbroken subdivisions.

51. Size and number of subdivisions.—The unit packages in which articles of food and drugs are marketed are usually suitable in size for subdivisions of a sample. In such case it remains only to decide on the number of subdivisions which it is advisable to collect. If unit packages do not contain the necessary quantity for a subdivision, a sufficient number of units should be collected. These may be sealed separately, making a number of subdivisions, or several units may be combined in one subdivision for sealing. In the latter case each unit should be identified properly, after which the required number of units may be wrapped together in one package, which package should be marked to show the number, size, and nature of the sample.

When the market package contains an amount sufficient for all the subdivisions of a sample, it should be subdivided, if practicable, by the inspector at the time of collection. When the market package contains an amount greatly in excess of that necessary for a sample, a sufficient amount should be withdrawn for the sample.

52. Repackaging subdivisions.—The following precautions should be observed in repackaging subdivisions, to prevent any possible change in the condition or the composition of the sample:

(*a*) Samples of acid or of a corrosive nature should not be placed in metal containers or come in contact with any metal parts.

(*b*) When the moisture content is important, samples should be packed in such a manner as to prevent evaporation.

(*c*) Samples of a volatile nature and those containing readily oxidizable oils should be shipped in containers with tight-fitting covers and should fill the containers, unless the product expands with the ordinary changes in temperature.

(*d*) Those products which are likely to become impregnated with odors during shipment should be so packed as to exclude so far as possible such odors.

(*e*) Bottles or other containers should not be filled too full in order to avoid breakage of the containers or rupture of the seals on account of expansion.

IDENTIFYING SAMPLES.

53. Identification marks.—Samples must be marked by the inspector when they first come into his possession, to prevent the possibility of error in identification. Stations should not analyze samples when there is any question regarding their identity, but such samples should be reported in the usual manner with a statement of the reasons for not making analysis. A convenient and effective method of identification is for the inspector to write his initials, the date, and the I. S. number with ink or indelible pencil upon the portions to be identified. The identifying marks should be placed on all the labeling in its various forms of principal and supplementary labels, stickers, tags, etc., and also on any boxes, cartons, or wrappers, and on any reading or pictorial matter of any kind inclosed in the package. Each unit package must be identified completely, whether sealed singly or combined with others in a package which is wrapped and sealed. To complete the identification of samples when the container of the product is inclosed in a wrapper or carton, every unit package may be given a number (1, 2, 3, etc.), to distinguish them from similar articles in the other packages of the sample. By this means the inspector will always be able in court to identify and classify any part of the sample. Identification of metal containers can be facilitated by using a sharp pointed instrument. Identification of burlap or other cloth bags can be accomplished with blue crayons.

SEALING SAMPLES.

54. Seal all samples and subdivisions.—The sample must be sealed (Regulation 3). Each separate subdivision must be completely sealed. The object of sealing is to make impossible any tampering with the contents of the packages between the collection of the sample and its receipt in the laboratory by the analyst. It is not necessary that the subdividing and the sealing be done where the sample is obtained. Nevertheless, this is advisable, and if no other samples are to be collected, generally it will be more convenient to complete, pack, and ship the sample at once. It is necessary, however, that the inspector maintain immediate charge of the sample from the moment collected until delivered for shipment, or delivered in person to the laboratory. The inspector must be prepared to establish in court the impossibility of the sample having been interfered with or changed while in his possession. The seals provided for inspectors are of two kinds:

(*a*) *The regulation paper seal* (C. 415) bearing the seal of the Department, together with a space for noting the I. S. number, date of collection, and the name of the inspector. Each seal used must bear these notations in the handwriting of the inspector, either in ink or with an indelible pencil; neither initials nor rubber stamps will be sufficient.

(*b*) *Metal seals.*—Each inspector is provided with a supply of lead seals and a punch having the seal of the Department on one side. The inspector should mark on the lead seal his initials and the I. S. number of the sample. To avoid confusion in handling, it is advisable that a tag upon which he has written the I. S. number, date of collection, and his initials, be attached to the cord to which the seal is affixed. These seals should be used whenever it is impracticable to use the regulation paper seal, as, for instance, in sealing a large box, sack, or sample containers that are more or less moist.

55. Seals should not cover labels.—Samples should be so sealed that the packages may be opened by the analyst without destroying the identifying marks. Seals should be so placed on the package that breaking of the seal in transit will be prevented. If necessary, a small gummed label may be affixed to uneven places that are to be covered by the seal. Printed matter should not be obliterated by the seals. If the seal can not be used on a package without effacing the label or design, the package should be wrapped in an outer covering to which seals are attached.

56. Sealing packages in cartons, and wrapping units.—When the unit package is a bottle or jar inclosed in a carton, the bottle or jar and not the carton should be sealed, which will permit scrutiny of all labeling without breaking the seals. A careful report should be made of the contents of the carton, especially when it includes booklets, circulars, etc. If packages containing several units are collected, each of the units should be sealed whenever practicable. Where sealing of the individual packages is not practicable or desirable, the number of units required for a subdivision of the sample can be wrapped together, forming a single package for sealing. When a subdivision has been thus wrapped for sealing, the I. S. number, the name of the product, and the inspector's initials should be plainly written on the wrapper. This will enable the inspector to identify in court the subdivision of the sample, and also each unit. Very effective sealing of an entire original package, such as a box or crate or other large object, can be accomplished by wrapping with burlap or cloth, sewing up the openings with cord, and sealing with the lead seal. When the original package is a barrel, the bunghole or other orifices should be sealed and the seals protected by means of a strip of tin or some similar device.

SHIPPING SAMPLES.

57. Mailing samples under frank.—Samples must be packed carefully in order to guarantee transportation without breakage. A total weight not exceeding 4 pounds may be forwarded by mail under frank, if in containers precluding breakage, unless the contents are of a character prohibited the use of the mails by the postal regulations. Such prohibitions include explosives, poisons, intoxicating beverages, inflammable materials, and other products which might injure the persons handling them, or injure other mail matter as by liquefying, corroding, or staining.

58. Shipping samples by express.—Samples forwarded by express from the field to a station or from one station to another or to Bureau headquarters must be shipped "express collect." Shipments from Washington to the field are sent "charges paid." In the absence of other instructions, samples forwarded to United States attorneys should be sent "charges paid." All packages should bear the name of the shipper, the point from which shipped, and the legend "Property U. S. Department of Agriculture." When forwarding packages from a station, an extra copy of the letter of transmittal should be included in the packages, to facilitate the immediate delivery of the contents to the proper person or laboratory.

59. Icing rush bacteriological samples.—All samples for bacteriological examination should be plainly marked as follows: "For Bacteriological Examination," "Perishable," "Rush." Express companies will re-ice all perishable products as many times as necessary when a request is made on the bill of lading, and such request should be made in shipping perishable samples from a point where one icing will not suffice.

60. Declaration of value.—Declaration of value on samples shipped by express should be "not over fifty dollars," unless that sum does not cover the original sum paid for the sample. That sum, however, does not represent its actual cost, because the inspector's time, expense, and the additional work necessary to secure a duplicate, if that were possible, must also be taken into consideration.

SAMPLING SPECIAL CLASSES OF PRODUCTS.

61. Varying factors in sampling.—Consideration must be given to the varying factors involved in sampling each case. These include the purpose of sampling, the size and cost of individual units, the uniformity of the product, the nature of the examination, and quantity necessary, and the character of the suspected violation.

The following suggestions for sampling various classes of products are given as types of representative sampling, and may be considered in connection with any special circumstances surrounding the consignment to be sampled. In offering these suggestions no attempt is made to cover the entire field of products which are to be sampled.

SAMPLES FOR BACTERIOLOGICAL EXAMINATION.

62. Two classes of products for bacteriological examination.—Products for bacteriological examination may be classed as either perishable or nonperishable:

(*a*) Products such as flour, dried milk, dried eggs, dried fruit, shelled nuts, and other like substances may be classed as nonperishable. For such samples, satisfactory containers may be prepared by thoroughly washing and drying Mason jars, screwing on the tops without rubber rings, and baking them for

2 hours in an oven at 170° C. Where no thermometer is available, this temperature may be considered to have been reached when a pledget of cotton placed with the jars has begun to turn brown. The spoon, ladle, spatula, or other utensil used for transferring the sample to the sterilized jar should be thoroughly washed and sterilized by dipping it in alcohol and burning the adhering alcohol.

(*b*) Liquid, semisolid, and frozen products are easily contaminated and subject to rapid spoilage; hence they may be classed as perishable products. Such a sample must reach the bacteriologist without possibility of contamination or spoilage after collection. For perishable products it is not advisable to attempt to sterilize containers in the field unless the inspector has had experience in sterilizing or has had bacteriological training. When circumstances warranted, such an inspector might improvise equipment for taking bacteriological samples, drawing upon his bacteriological training for guidance as to his procedure. For these products in general, sterilized containers with satisfactory provision for icing them, and sterilized tubes or pipettes when required, should be furnished by a bureau or by a cooperating laboratory of either a State or city. In order that the inspector may judge as to whether containers are properly prepared, specifications for sterilizing them are suggested as follows:

63. Kinds of containers to be used.—Glass-stoppered bottles (either tincture or salt mouth) for liquids, and Mason or similar jars provided with new rubber rings for solids should be used. In all cases, stoppers or covers must fit so perfectly that there is no possibility of leakage, either inward or outward. Each glass-stoppered bottle should be provided with a cap of tin foil which extends over the stopper and well down beyond the neck of the bottle. This should be pressed close in around the neck of the bottle so that it conforms to the shape of the bottle. Over this should be placed a muslin cap which should be drawn down well and fastened in place by means of a cord wound tightly around the neck of the bottle, just below the lip, and tied securely. The muslin cap prevents stoppers from working loose during transportation, and the tin-foil cap prevents any contamination which might sift through the muslin from reaching the lip of the bottle.

For liquids, containers holding 2 or 3 ounces usually are sufficiently large, while for solids, in which the bacteria normally are less evenly distributed than they are in liquids, containers holding 8 ounces or more should be used.

64. Sterilizing containers.—Containers must first be washed scrupulously clean and dried. Chemical sterilization is not permissible because traces of the agent used may remain to prevent bacterial growth in making subsequent cultures. Glass-stoppered bottles should be sterilized by dry heat, but Mason jars should be sterilized by moist heat.

65. Sterilization by dry heat.—The same degree of dry heat is less destructive to bacterial life than is moist heat. Therefore, if dry heat is used, the exposure should be of longer duration than with moist heat. The hot-air sterilizer used must be of such construction that the temperature in all parts of it is fairly uniform, the temperature of all parts must be close to the temperature shown by its thermometer, and it should not be packed to more than one-half of its volume. The heating and cooling should be gradual to prevent breakage of the bottles. To insure sterilization, a temperature of 170° C. should be maintained for 2 hours. If the temperature were appreciably exceeded, the tin foil caps on the bottles would be melted and spoiled.

66. Sterilization by moist heat.—To accomplish such sterilization, the Mason jars, with new rubber rings in place and with the covers in place, but not tightly clamped or screwed down, should be subjected to live steam under 15

pounds pressure for 30 minutes in an autoclave or pressure cooker. Upon removing the jars from the autoclave or pressure cooker the covers should be securely fastened in place. Extra jars should always be provided to allow for breakage.

67. Accessory utensils which may be needed.—Utensils which may be required in transferring bacteriological samples to containers are tubes of glass or metal and pipettes which should be sterilized in a metal container fitted with a telescoping top when the bottles or jars are sterilized; and such utensils as spoons, butter triers, spatulas, dippers, chisels, and augers, which after thorough cleansing should be sterilized the moment before using by dipping in alcohol and then burning the adhering alcohol. Caution should be observed to see that every portion of such utensil which will come in contact with the sample has been wet with the alcohol and flamed, and that such portion is not allowed to come in contact with the fingers or any other object except the sample.

68. General precautions in taking bacteriological samples.—Extreme care must be observed in the handling of containers and utensils in the collection of bacteriological samples. Under no circumstances should the fingers or any other contaminating object be permitted to touch either the interior or openings of the containers or covers or the exposed part of stoppers when they are withdrawn from bottles. In withdrawing stoppers from bottles provided with the tin-foil and muslin caps, the cord should be untied and the muslin caps removed. The bottle is then held near the bottom by the right hand, while with the fingers of the left hand the stopper is drawn directly upward. In this operation the tin foil is opened by the lip of the bottle in such manner that it will again clear the lip in replacing the stopper. If the sample is to be taken from a faucet the bottle is held directly under it. If the sample is to be transferred to the bottle by means of a pipette or thumb tube, the bottle may stand upon some convenient table, chair, or shelf, thus leaving the right hand free to manipulate the pipette or thumb tube. The stopper, however, should not be laid down, but should be held by the fingers of the left hand, and never inverted during the process of sampling, as dust from the air might contaminate it if it were inverted. When the bottle has been filled, the stopper should be carefully replaced, seeing that the neck of the bottle does not touch the outside surface of the tin-foil cap; the tin-foil cap should be pressed back tight against the neck of the bottle, and the muslin cap tightly drawn down in place and securely tied with cord. While introducing a solid or semisolid substance into a Mason jar the cover never should be inverted or laid down, but should be held by the fingers of the left hand. In any case, the containers should not be opened until the instant of use, and then only so long as necessary to admit the sample. The covers of Mason jars should be screwed down as tight as possible, and stoppers of bottles should be pushed in as tight as possible.

In submitting bacteriological samples for examination it is advisable that an empty container, sterilized at the same time with the containers used, be submitted also in order that it may be tested for sterility as a check. It must be remembered, however, that while the containers may be sterile, contamination may occur while transferring samples to them.

OYSTERS.

69. Sampling oysters in the shell.—Select a sufficient number of oysters of average size, with deep bowls and shells tightly closed, to represent the shipment. Pack in clean cloth bag or other suitable container. Samples kept over 12 hours before reaching the laboratory should be iced in such a manner

as to prevent mixing ice water with the oysters. A metal container inside a tub may be used for this purpose.

70. Sampling shucked oysters.—The stock in the container to be sampled must be thoroughly mixed to obtain an even distribution of the meats and the liquor. This may be accomplished either by shaking and inverting several times or by means of a sterilized ladle. Fill a sterilized pint Mason jar by means of a sterilized ladle or dipper. If more than one container is to be sampled every utensil must be washed and sterilized before being used to sample each additional container. Place the samples at once in a carrying case containing cracked ice, so that the sample is cooled to near the freezing point, and deliver to the laboratory as quickly as possible.

MEDICINAL AND TABLE WATER.

71. Official water samples.—Official samples of water are usually obtained for both chemical and bacteriological examination and should be collected and forwarded in the original containers if the original container has a capacity of 5 gallons or less. If the original container has a capacity greater than 5 gallons (barrels, tanks, tank cars, etc.) reference should be made to the Chief of the Bureau through the district chief before collection is made. If a water is marketed in containers of 1, 2, or 5 gallons, collect 3 containers. If marketed in ½-gallon bottles or less, collect 12 bottles. If a water is marketed in bottles of several sizes, collect the ½-gallon or smaller bottles. Seal each bottle or other container of an official water sample and forward without delay to the Water Laboratory, Bureau of Chemistry, Washington, D. C.

72. Investigational water samples.—It is sometimes necessary to collect samples of water direct from springs or other sources for examination in connection with or to supplement data on official samples. As a rule, a reference should be made to the Chief of the Bureau through the chief of district before such samples are collected. Usually 2 gallons of water for a chemical examination and duplicate samples of 4 fluid ounces each for a bacteriological examination are sufficient. Collect samples from springs, wells, tanks, etc., without stirring up mud or silt. When a sample is to be collected from a pump clear the pipe of the water standing in it by sufficient pumping. Open hydrants, faucets, and pipes, and permit them to run for a time prior to taking the sample, to avoid collecting the water in the dead end. Use only thoroughly clean containers and new stoppers for the collection of samples for chemical examination and only clean and sterile glass-stoppered bottles for the collection of samples for bacteriological examination. The Washington laboratories will supply proper containers for each class of samples when desired.

In taking water samples for bacteriological examination, observe the following precautions to avoid accidental contamination: Do not open sterile bottle until all conditions are satisfactory for taking the sample, which should be done as expeditiously as possible. Remove the glass stopper and hold it by the top until bottle is filled. Avoid bringing the cone of the stopper (that portion of the stopper which fits the neck of the bottle) and the lip of the bottle in contact with anything except the water being collected. So far as practicable, hold the bottle in a horizontal position when open. Fill bottle to shoulder, replace glass stopper, cover the top with a clean cloth or paper, and tie on with a string. When removing a sample from a barrel or carboy, flame the bung or stopper and remove it with a sterile corkscrew, file, or other sterile instrument. Transfer the sample to the sterile bottles by means of sterile pipettes. Take every precaution in removing the bung or stopper and in sub-

sequent operations to prevent accidental contamination of the sample. Describe the exact details of the precautions observed in the collection of a sample in the report of collection. Forward investigational samples of water without delay, addressed to the Water Laboratory, Bureau of Chemistry, Washington, D. C.

EGG PRODUCTS.

73. Frozen eggs.—Before beginning operations, provide as many clean sterilized containers, preferably quart Mason jars, as there are samples to be drawn, also a 2-inch ship auger, chisel, metal spoons, supply of alcohol, towels, and receptacles for hot water used in the frequent recleansing of the utensils. A few extra sterilized containers are desirable to provide for breakage or accident.

Before drawing the sample, all instruments used must be sterilized immediately before using. They must again be cleansed thoroughly and sterilized before being used on each subsequent subdivision of the sample collected. In drawing samples, cores sufficient to pack a quart jar should be taken midway between the center and circumference at equidistant points from each other. The cores can best be drawn by boring with a sterilized ship auger from the top to the bottom of the container after first removing, with a sterilized chisel, the surface layer of the frozen material. The cores from each container should constitute a separate subdivision of the sample.

The turnings or chips of the sample cores should be introduced into the sterilized container without permitting the material to come in contact with the fingers or any other contaminating object. When necessary, a sterilized spoon may be used to remove the material attached to the auger and pack it in jars. Such portions of the spoon as are touched by the fingers or any other contaminating object must not be permitted to touch the product. Nothing should be permitted to touch the inside of the container covers, which should never be inverted. The containers should not be opened, nor the interior exposed to the air longer than is absolutely necessary to admit the sample. After receiving its portion of the sample each container should be identified, sealed, and immediately placed on ice or in a sharp freezer.

The inspector should note carefully the condition of the product at the time of sampling, and record the appearance and odor. Samples which are satisfactory for bacteriological examination will also suffice for chemical analysis. In cases where deemed advisable, however, one or more original packages of the product may also be submitted.

All samples must be delivered to the laboratory in their original frozen condition. If delivery can be made in a short time, pack in sufficient ice to hold during transit. If the laboratory is at a distance, the subdivisions should remain in a sharp freezer until solidly frozen, after which they may be iced for shipment. It has been found that the samples may be shipped in good condition by wrapping the jars with waxed paper, then packing them tightly in a container with sawdust to prevent breakage. This container is then braced in the center of another container, such as a box or barrel, and is surrounded by sawdust over which sufficient water is poured while in the sharp freezer, allowing the sawdust and water to freeze into a solid cake. The water should be added slowly to prevent any possibility of water entering the sample containers. This method of packing will keep the sample in good condition for 2 or 3 days. Mark the shipping package "Perishable" "Rush." This notation should also appear on the shipping receipt.

74. Liquid egg products should be thoroughly mixed. Samples must be taken with sterilized instruments and placed in sterilized containers, prefer-

ably quart Mason jars. The precautions outlined for sampling frozen egg products must be observed. If it is impossible to deliver the samples to the laboratory on the day collected, they should be frozen and forwarded as previously indicated.

75. Shell eggs, wherever located, may be examined by candling. When decomposition is indicated, but not clearly evident under the candle, the eggs should be broken to determine their actual condition. The results of the examination should be reported to the station under an official I. S. number on the field egg candling report form (C. 471).

In commercial practice the following amounts are considered representative samples for candling:

In lots of 100 cases or less, candle ½ case from each of 5 different cases.

In lots of 100 to 300 cases, candle ½ case from each of 8 different cases.

In lots of over 300 cases, candle ½ case from each of 10 different cases.

Where cases run uneven, or the lot consists of current receipts, candle a larger number of cases, and with small shipments of this class, candle from 20 to 50 per cent of the lot. In consignments made up of separate lots or grades, as indicated by different marks or branding, each lot and grade should be examined and reported separately. (See U. S. Dept. Agr. Bul. 565, "How to Candle Eggs.")

OTHER SPECIAL CLASSES.

76. Decomposed food products.—Foods which are infested with vermin or their excreta, or are moldy, sour, putrid, decomposed, or filthy are classed as adulterated within the meaning of paragraph 6, section 7, of the Food and Drugs Act.

When foods suspected of being in violation of this paragraph are encountered, a careful field examination should be made of a sufficient portion of the consignment to be thoroughly representative, and a record kept of the results of this examination, which should show the approximate percentage of the consignment found to be sound and the percentage of the different forms of decomposition. For example, a shipment of canned goods in which 18 per cent was found to be swells, 3 per cent pin holes, 4 per cent leakers, and 75 per cent sound should be reported in that manner rather than simply "25 per cent of the shipment decomposed." When the product itself is examined, the report should give, in addition to the percentages of sound and unsound material, a complete description of the characteristics of the unsound portions.

When a field examination indicates adulteration of this class of shipment, an official sample should be collected for laboratory examination, except where this is impracticable, or where the field examination is so complete as to establish fully the exact degree of adulteration. This sample should be representative, and consist of a number of the packages of each of the different forms of decomposition found present, and also a few packages of the sound product. The entire sample should be submitted under one I. S. number, but the subdivision consisting of apparently sound material should be so identified as to distinguish it as the product so classified in the field examination.

77. Cereal products infested with vermin.—The sampling of flour and cereal products infested with vermin requires that the sample be taken from those portions of the package containing the vermin and their by-products. For example, a sample drawn by means of a feed-trier from the center of the package would not be representative of the portions contaminated, as it would probably contain very little, if any, of the objectionable matter. The package should be carefully examined to determine the extent of the visible

contamination. Representative samples of the contaminated portion should be submitted with a full description of the method of sampling, and a report of the extent of the visible contamination.

78. Meat products.—The Federal Meat Inspection Act, as amended, enforced by the Bureau of Animal Industry, provides for the inspection only during production of meat-food products from cattle, sheep, swine, horses, and goats intended for disposal within Federal jurisdiction, rather than continued inspection until delivery to the consumer. When supervision by the Bureau of Animal Industry has ceased, the inspection of meat products under the Food and Drugs Act may become necessary. The responsibility for inspection of meat products other than those from cattle, sheep, swine, horses, and goats rests entirely upon the Bureau of Chemistry. Inspection of poultry, game, fish, and other meat products should be sufficient to prevent decomposed products from being disposed of for food purposes and to prevent traffic in such products which may be otherwise adulterated or misbranded.

When the examination is to determine if the meat product is suitable for food purposes, enough units should be collected to permit reference of portions of the sample to the Bureau of Animal Industry. When the character of the shipment and its location make it advisable to have the entire consignment examined, arrangements should be made to have a Bureau of Animal Industry officer accompany the inspector to the point where the shipment is located. Assistance may be secured from the Bureau of Animal Industry in the inspection of meat-food products from animals other than cattle, sheep, swine, and goats.

Should the examination by the Bureau of Animal Industry officer indicate a violation of the law, he will submit a written report describing the conditions which indicate the product is "filthy," "decomposed," or "unfit for food," as the case may be. This report should be addressed to the chief of station for that territory, and will be included by him in his regular laboratory report upon the sample, which should be classified as an official sample. In such instances the delivery of a sample to the laboratory may be omitted, unless a supplemental or additional laboratory examination be deemed necessary.

A station receiving at any time a request from a representative of the Bureau of Animal Industry for assistance in the completion of some investigation which may have been undertaken with the view of bringing prosecution under the Food and Drugs Act should cooperate to the fullest extent possible.

79. Canned foods.—This is one of those classes of products for which it is especially difficult to give definite instructions for sampling. Samples of canned foods, including vegetables, condensed milk, potted meat, etc., should usually consist of one dozen units if the consignment consists of 100 cases or less; of two dozen units if between 100 and 240; of one unit package from each of 10 per cent of the shipping cases if between 240 and 480; and if the consignment consists of more than 480 cases, decrease materially the percentage of cases to be sampled above that number. Those cases from which samples are taken should be serially numbered from 1 up, and the unit or units from each case should be numbered correspondingly for purposes of identification. Analysis showing variations in the shipment may require further samples from other cases or from particular cases previously sampled.

80. Stock feed.—For milled products or scratch feed in sacks, use a "trier" or "sampler." When the shipment consists of 100 sacks or more, samples should be drawn from approximately 10 per cent of the sacks; when the shipment consists of between 20 and 100 sacks, sample 20 sacks; if less than 20 sacks, sample all sacks.

Place the bag upon its side, insert the trier between the lacings and force through to the bottom, give a twisting motion, withdraw the sampler, and empty its contents upon a sheet of clean paper or mixing cloth. After the desired number of units have been sampled, the entire amount, as a composite sample, should be mixed thoroughly and arranged in the form of a circle. Divide the circle into 6 equal sectors. Place sectors 1 and 4 in one subdivision, 2 and 5 in a second, and 3 and 6 in a third. Seal the subdivisions, and identify them with I. S. number, the name of the substance, and initials of the inspector. If any part of the labeling is branded on the sack, one of the sacks, properly identified, should be emptied of its contents and forwarded as a portion of the sample. If tags are used, 3 tags, properly identified, should be forwarded with the report of collection. If the trier can not be used, it will be necessary to open the package and take portions by hand from the top, center, and bottom of each package. Thoroughly mix, subdivide, and pack as already directed.

It should be the aim in each case to secure an average representative sample, and not the best nor poorest portion of a package. The tendency of some mixed feeds to separate should be kept in mind. In such cases the finer or heavier portions may settle to the bottom. Special care, therefore, should be exercised in taking and mixing the sample.

81. Grain in bulk.—It may be necessary occasionally to sample grain in bulk, either for action under the Food and Drugs Act or in cooperation with the Bureau of Markets. The method of sampling prescribed by the Rules and Regulations of the Department of Agriculture, under the Grain Standard Act, is as follows (Regulation 5, section 7, Circular 70, Office of the Secretary):

It shall be at least 2 quarts in size of which at least 1⅛ pints shall be inclosed in a clean air-tight container and the remainder, if any, in a clean cloth sack. (Paragraph 1, amended.)

In the case of bulk grain in a carload lot or in a wagon, at least 5 probes and as many more as may be necessary in the discretion of the sampler shall be drawn from the grain in different parts of the car or wagon as the case may be. (Paragraph 2.)

The grain taken from the different portions of a lot or parcel shall be thoroughly mixed and such mixture or a typical portion thereof, otherwise complying with this regulation, shall constitute a sample of the entire lot or parcel. (Paragraph 6.)

In case any portion of a lot or parcel of grain is sour, musty, excessively wet, heating, hot, fire-burnt, infested with live weevils or other insects injurious to stored grain, or otherwise of distinctly low quality, separate samples, otherwise complying with this regulation, shall be taken, respectively, from such portion and from the remaining portion. There shall be filed with such samples a statement showing the estimated quantity of each portion of the grain from which each such sample was taken. (Paragraph 7.)

In case it shall appear that a lot or parcel of grain has been so loaded or handled as intentionally to conceal evidently inferior grain, a sample of such inferior grain, otherwise complying with this regulation, shall constitute a sample of the entire lot or parcel. (Paragraph 8.)

These paragraphs of the regulation quoted form the basis of the method of sampling bulk grain in carload lots by officers of the Bureau of Markets.

Sampling is by means of the 60-inch, double-shelled, 10-compartment brass trier. The contents of the trier from each probe may be placed on a canvas, so that at the time of sampling a thorough examination of the grain may be made for odor, insects, uneven loading, deceptive loading, temperature, quality, and condition. In the reduction of samples to proper size for such tests as may be made, the most satisfactory results have been obtained by the use of the Boerner sampling device. When such device is not at hand, the samples should be subdivided as explained under stock feed (paragraph 80).

82. Sampling for quantity of contents.—The Food and Drugs Act provides that food in package form, even though in standard packages completely filled, is

misbranded if "the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count."

"Exemptions as to small packages," provided for in the Act, are described in Regulation 29, as amended, as follows:

(*j*) A package containing one-half avoirdupois ounce of food or less is "small" and shall be exempt from marking in terms of weight.

(*k*) A package containing one fluid ounce of food or less is "small" and shall be exempt from marking in terms of measure.

Opinions regarding when food is "in package form," within the meaning of the Act, that is, differentiating between a package of food and food in package form, are being published in the Service and Regulatory Announcements by the Bureau, and inspectors should familiarize themselves with these opinions.

Inspectors should report with records all interstate shipments of packaged food, the label of which does not bear a statement of the net contents of the package, unless the product has been specifically classified by the Bureau as not being food in package form within the meaning of the amendment. In every case before drawing food samples the label should be scrutinized for the presence or absence of the net weight declaration. A product in package form is in violation of the law in the absence of a statement of the net contents, if the statement made is incorrect, if it is not plain or conspicuous, or if otherwise improperly made (S. R. A. Index).

In the absence of a statement of the net contents, cases may be developed on documentary samples, that is, without the collection of a physical sample. Whenever a violation of this character is encountered, the inspector must examine carefully a number of units in the shipment to determine positively the absence of the required statement, and make a photograph or facsimile tracing of all marks or labels appearing on the packages. He should determine and report the size, capacity, and net contents of the packages and whether filled to capacity. This is especially desirable when the packages are of slightly less capacity than their size would indicate, in which case a sample package should be submitted for use as an exhibit in court later.

In lieu of a physical sample, the inspector should submit his reproduction of the labeling, records of interstate shipment and sale, and his report under an official I. S. number. This report should show the product, the number of packages in the shipment, number examined, and the extent of his examination. In a case of this kind, the inspector will be the principal witness, and he must be prepared to show that his examination has been accurate and thorough.

In those cases where the statement is an incorrect one, the net contents of a number of packages should be determined in the field, and, when practicable, regular official samples submitted to the laboratory with a report of the field examination. In those cases where the containers and the product remain uniform, such as food in cans, the inspector should determine in the field the gross weight of each of the units which he collects, properly identifying them so that the weights can be subsequently checked in the laboratory to establish the accuracy of the scales used in the field. In addition, he should make gross weighings on a number of other units in the dealer's possession, from which data it will be possible to calculate subsequently the net contents of all packages weighed, using as a tare the figures obtained in the laboratory on the units actually submitted.

In the case of an inconspicuous statement, sufficient weighings should be made to determine the correctness of the declared amount, and regular official samples submitted as indicated in paragraph 41.

It is desirable that the inspectors familiarize themselves with the provisions of the Standard Barrel Act of March 4, 1915, and the Standard Container Act of August 31, 1916, in order that they may direct attention to apparent violations of those acts which they encounter. In Service and Regulatory Announcements, Chemistry 20, opinion 226, the following statement is made:

The Bureau is of the opinion that these laws in nowise conflict in their requirements, and that in case of food in package form, even though standard containers are used, it is necessary to mark the packages with the quantity of the contents. It will be noted that paragraph (*e*) of Regulation 29, as amended by Food Inspection Decision 168, admits of the use of the term "one United States standard barrel" as a unit of dry measure for use upon standard barrels which are filled to capacity with food products.

83. Crude drugs.—Shipments of crude drugs may be in violation of the Food and Drugs Act, due to contamination by an excess of soil, rubbish, or parts of the plant other than that given in the definition of the drug, or because they are deficient in the active constituents, or consist wholly or in part of a spurious drug.

The nature of these violations makes it necessary for the sample to be a composite one of portions from different parts of the package, as soil or other foreign matter may settle to the bottom. If the drug is whole (unground) the sample may be drawn by hand, using care to make it wholly representative. Subdivisions should be made as directed under stock feeds (paragraph 80), taking care that each subdivision contains a representative proportion of soil and other foreign matter which may be present. The subdivisions usually should contain approximately 1 pound of the product.

The inspector should note any great variation in the appearance of the drug or whether the contents of one package differs from that of another. If any distinct variation is found in the packages, samples from each package showing the marked variation should be submitted as separate subdivisions, with a special report calling attention to the conditions noted. If the drug consists of seeds or has been ground, sample and subdivide precisely as in the case of stock feeds. If the drug is in package form the amount of the sample should be representative of, and in proportion to, the amount of the shipment.

84. Sherley Amendment samples.—The wide distribution of so-called "patent medicines," frequently misbranded with false and fraudulent statements regarding therapeutic effects, and the possibility of the collection by different inspectors of a number of official samples of one preparation; has led to the adoption of a system to prevent such duplication. When an inspector locates a drug product which in his judgment bears false or fraudulent statements, and if the product is manufactured in his own station's territory, a thorough inspection of the manufacturing establishment should be made. If the preparation is manufactured within the same district, all the information obtained should be communicated to that station; if the product is manufactured in another district, all the information obtained should be forwarded to the chief of the district in which it is produced.

After reviewing the factory inspection report, the Chief of the Bureau will notify the district concerned if an official sample should be collected. This notice is in turn transmitted to the station best situated to collect the official sample. Official Sherley Amendment samples should be colleced only upon request, and should be sealed and identified by the inspector in the same manner as other official samples. Special emphasis is placed on the need for identifying particularly each label, circular, carton, or any other printed matter which may be inclosed within the package (paragraph 31).

It is desirable that the inspector also forward any newspaper, magazine, placard, handbill, or other form of advertisement, which is used in furthering the sale of the article. Such advertisements, however, should be marked for identification and clearly described to prevent their being considered a part of the package itself.

REPORT ON COLLECTION OF SAMPLES.

85. Report on collection defined.—The report on collection is a statement of the circumstances surrounding the collection of a sample, and should include all the facts necessary to prove the interstate shipment and the sale of the goods, if a sale has been arranged for or consummated. This report is made on two forms, the Description of Sample book (C. 401, 402) and the Report on Collection blanks (C. 406 (blue), 407 (red)), discussed in paragraphs 86 and 87.

86. Description of Sample book.—Forms C. 401 and 402 are 5 by 8 sheets in book form with identical headings and I. S. numbers, bound together alternately and numbered serially. Attached to each sheet are four perforated coupons bearing the same I. S. number as the sheet. The I. S. number is used for identification of the sample, and the coupons should be attached firmly to the subdivisions. All remaining coupons of that number should be destroyed. Form C. 402 serves as the carbon copy of the report on Form C. 401, and both must be used in reporting one sample, as they are the basis for constructing independent records in the Bureau and district offices of each official sample collected. Since these are used for indexing, the information should be as complete as possible and both copies legible. The forms should be typewritten.

Among the headings on these forms indicating the information required are the following:

Substance: State substance briefly, as, for example, white clipped oats, tomato catsup, fluid extract of digitalis, etc., without giving brand names.

Label: Quote only the essential parts of the label. If there is no label so state.

Manufacturer: Full firm name and address should be given. If the name of the manufacturer is not known, give name and address of shipper, indicating such fact.

Dealer: Full firm name and address should be given.

Date of shipment: If date of shipment is not known, give date of receipt at destination, indicating such fact.

These sheets are perforated, so that they may be readily detached from the book, and they should be filled out and forwarded promptly upon collection of a sample. Form C. 401 should be sent to the Interstate Office of the Bureau, and C. 402 to district headquarters. These forms should be prepared and forwarded immediately after the collection of the sample.

87. Report on Collection forms.—Four copies of the Report on Collection (C. 406, 407) should be made in every case: The original copy signed by the inspector, which becomes the basis of the case and accompanies the original papers of the case through the Department; one blue carbon copy for the district's permanent file; one blue carbon copy for the station's file; and one red carbon copy for the analyst. In certain cases, additional copies are necessary: If the shipment originated in another district an extra blue carbon copy for that district; and if the sample is collected by a State inspector an additional blue carbon copy for the files of the State office. The reports should be made out promptly, as no work can be done on the sample until the report is received by the laboratory.

The Report on Collection blanks are prepared with headings indicating the information necessary for the consideration of the case. While the headings show clearly the character of the facts to be recorded, the following explanations of a few may be helpful:

Substance: State substance briefly, as, for example, egg substitute, shucked oysters, confectionery, without giving brand names.

Label on retail package: Quote only the essential parts of the labeling, naming the labels from which the quotations are taken, as principal label, neck label, carton, circular, etc.

Label on shipping package: Quote fully, including any transportation company marks. Where the package is not secured as an exhibit, a photograph or facsimile tracing of the labeling should be submitted.

Salesman: Give name of person who identified the package sampled as having been included in a particular shipment.

Identified by: Give name of person who identified the records as covering the shipment sampled. This may be the same person who identified the package sampled.

Sample taken from: Give location of sampled stock, as retail shelf stock, wholesale or warehouse stock, freight platform, car on track at destination, car en route, etc.

Consisted of: Describe the sample, and the manner of collecting it, as one can from each of —— number of cases; feed trier core from each of —— number of sacks; 3 retail packages; 1 quart from a 1-gallon bottle, including the bottle container itself; bacteriological samples consisting of —— cores drawn with sterile glass tubes and placed in sterile glass bottles, etc. If bacteriological samples are involved, full statements should be made as to how and by whom containers and utensils were sterilized; and how and by whom samples were transferred to containers.

Prepared in the following manner: Describe the number and kind of subdivisions and the manner of sealing, stating the exact manner in which the blue seal was filled out.

Reasons for collection: State reasons for collection and the violation suspected. If collection was requested, attach copy of such request to the red copy form (C. 407) of the collection report.

Brief statement of handling product since delivery to dealer: Trace shipment briefly, and include under this heading names of necessary witnesses, in addition to those reported under "Salesman" and "Identified by," to prove interstate shipment and subsequent handling and storing of the product.

88. Complete Report on Collection.—The Report on Collection as filled out is as follows:

INSPECTOR'S REPORT ON COLLECTION OF I. S. NO. *199378–R.*

Substance: *Gelatine.*
Label on retail package: *No retail package.*
Label on shipping package: (*On head of barrel*) "*SPECIAL. T. Richard Roe & Co., Toledo, O.*" (*On side of barrel*) "*GELATINE 378 32.*" (*On side of barrel*) *transportation company marks* "*NYC 255642 10 26.*" (*See photograph of labeling attached.*)
Manufacturer: *Unknown.*
Shipper: *John Doe & Co., Little Rock, Ark.*
Dealer: *Richard Roe & Co. (Ice Cream Mfrs.), Toledo, Ohio.*
Salesman: *Richard Roe.* Identified by *him,* with shipment covered by submitted original invoice dated *October 17, 1918,* issued by *shipper,* and original *freight bill,* dated *October 26, 1918,* issued by *N. Y. C. R. R.,* Pro. No. *314257,* showing shipment from *Little Rock, Ark.*
Collected on *Dec. 16, 1918,* at *10:25 a. m.* Price paid, *$2.60 per sample.*
Delivered to *American Railway Express* on *Dec. 16, 1918,* at *11:55 a. m.,* for transportation to *Chicago Station.*
Sample taken from *reserve stock in warehouse* consisted of *about 4 lbs. of product, being small portions from different parts of 1 barrel of the product.*
Prepared in following manner: *Mixed, subdivided, and packed in 3 1-quart Mason jars. Jars identified and sealed with paper seals.*
Amount of shipment: *1 bbl. 346 lbs.* Dealer has on hand: *All.* Invoice price: *58¢ lb.*
Reasons for collections: *Excessive zinc suspected.*
Brief statement of handling product since delivery to dealer: *Received by dealer direct from transportation company, Oct. 29, 1918, and stored in his warehouse stock on second floor of his factory.*
Other samples same shipment: I. S. No. *None.*

S. A. Turner, Inspector.

C. 406.

In reporting the collection of samples a complete report, with all records, must be submitted for each sample. This is necessary even when two or more samples are taken from one shipment, included in one invoice and covered by one set of records. In other words, the jacket of each case must be complete in itself, permitting consideration of each sample independently.

89. Reporting duplicate samples.—Requests to duplicate the collection of certain samples are received occasionally. Such samples are to be taken and

reported under a new I. S. number as though they were original independent samples, except that the legend "Duplicate of I. S. No__" should appear in a conspicuous manner at the top of both the collection reports (C. 406, 407) and sample sheets (C. 401, 402).

90. Additional records with collection reports.—Collection report forms must be supplemented by supporting documentary evidence, such as originals or copies of the transportation records and invoice or other evidences of sale. The papers submitted should be identified specifically in a written, signed statement by a competent person who can later, if necessary, testify in court to their authenticity as covering the shipment sampled. Blank forms for the identification by a person other than the inspector of the stock sampled and of the records are provided by the Bureau, as follows: Dealer's Receipt (C. 413) and Dealer's Certificate (C. 414). Written identification of records should always be obtained where practicable; otherwise, report the names of competent witnesses to establish the interstate shipment of the product. If the shipment is sampled in possession of a common carrier company, the name of the agent of the carrier who can produce the records of interstate shipment should be reported.

91. Records to prove interstate shipment.—In proving interstate shipment it should be borne in mind that public service companies maintain a record of shipments transported by them. The forms in which these records are preserved vary with the kind of transportation (rail, water, express, etc.), and also among the different companies. Carriers generally issue a receipt or bill of lading for the goods evidencing delivery for shipment, a manifest or waybill evidencing the actual transportation of the shipment, and a freight receipt evidencing the transportation and delivery of the shipment to the consignee.

Complete interstate records necessarily include those papers which show the different steps of transportation, that is, those which actually evidence the delivery by a certain firm of a particular shipment on or about a certain date for transportation, its transportation from one State to another via a certain carrier over a certain route, and its delivery to the consignee on or about a certain date. When the shipment is located in possession of a person other than the consignee, its transfer from the consignee to the place of storage and the person in actual possession of the goods must be established.

For ordinary purposes of tracing a shipment, a freight bill, a bill of lading, or a copy of the waybill or manifest is sufficient. The station often finds it advisable to retain in its possession copies of records submitted by the inspector. If complete tracing of the shipment becomes advisable, the station should secure all the other records necessary to prove each step of the complete journey. Transportation records usually will be found identified by a system of numbers. The subsequent transportation records frequently carry not only their individual numbers but also the identifying numbers of the previous records. This furnishes accurate means of identification and ready means for tracing.

If the interstate transportation is by United States mail, the wrapper of the package showing the address and canceled postage stamps is evidence of interstate transportation.

When the interstate delivery is by wagon or truck, the name and address of the driver and the exact date of delivery should be reported. A signed statement should be obtained from the driver, establishing the facts of interstate shipment. If this can not be secured, a written statement of all facts in his knowledge should be obtained from the consignee.

92. Records of sale.—Theoretically, it would seem wise for an inspector to obtain the records of interstate transportation before collecting a sample. Prac-

tically, however, the experienced inspector knows that apart from the ordinary mail delivery, there is always a record of the interstate transportation of goods by public carriers, and that when he encounters a shipment which should be sampled the interstate records are obtainable. He occasionally finds it advisable to sample when the product is first located rather than afford opportunity for possible interference should sampling be delayed. The Bureau believes that when an inspector is confident that a shipment should be sampled, he will be sufficiently persistent in his efforts in tracing the shipment to establish the fact of interstate transportation, however obscure that may be.

Records of sale are, as a rule, in the form of an invoice. Goods shipped on consignment are usually listed in a consignment memorandum or a letter. These papers are issued frequently from an administrative office at a distance from the shipping point. Although the records of sale do not in themselves prove interstate shipment, they are of great value in proving the representations made concerning the quality of the product, and thus often become of primary importance in determining the extent of misbranding. Copies of records should set forth fully all the information contained in the originals. Occasionally other papers of value in proving the sale exist. They also should be obtained.

Records of transportation must always be submitted; records of sale should always be submitted when obtainable.

ANALYSIS OF SAMPLES.

93. Receiving official samples.—Samples are received by the stations from inspectors, by delivery in person, by mail, or by express. Samples should be received by the chief of the station or by the person officially designated by him. It is desirable that official samples be handled at the station by as few persons as practicable. This affords less opportunity for confusion to arise in establishing the details of the receipt and handling, if it should be necessary to do so in connection with subsequent court action. A record of receipt of the sample should be made immediately. This record should include the—

Interstate number.
Date of receipt.
Name of inspector.
Manner of receipt:
    Direct from inspector.
    By express (name of company).
    By mail (if registered indicate).
    Place from which sent (if by mail or express).
Number and type of packages (bottle, bag, box, barrel, crate, carton, etc.).
Condition of packages and seals.
Class of product, if indicated on package.
Name of person receiving sample.

Form C. 421 provides a convenient means for keeping this record. Official samples should be held in the locked sample room of the station until assigned for analysis. The Sample Record I. S. card (C. 421) serves also as a record of the date of delivery of the sample to the analyst, and the date of its return to the sample room. These cards may be filed under three classes: Samples awaiting analysis, samples in course of analysis, and samples the examination of which has been completed. They will then serve as a ready reference to the number of samples at the station which have been analyzed, the number being examined, and the number awaiting analysis. When the analysis of the sample has been reported the card may be refiled as a permanent record.

94. Handling samples in laboratory.—Upon receiving a sample, the analyst should first inspect the seals to ascertain that they are intact, and record this fact. If the seals have become broken or detached, no examination of the sample should be made, and the reasons for not examining the sample reported. If the seals are intact, the analyst should write the I. S. number, the date, and his name or initials on the label of the package and on any accompanying printed matter, so that he can later identify the sample as the one examined by him. He should then enter on the Analyst's Record (C. 431), in the manner shown on page 52, notation as to the—

Interstate number of the sample.
Product.
Condition of seals.
Number of subdivisions received for analysis.
Date received.
Name of person from whom received.
Name of analyst.

Notation should be made on the Analyst's Record (C. 431) of any evidence or indication of breakage or serious damage to the container, or leakage or loss of the contents of the package. Upon opening the package, the seals should be retained. Identifying marks upon the packages or seals must be preserved, so that later the package can be identified readily by the inspector. The inspector's seals and identification marks should not be removed from the package, if it is possible to leave them attached. When this is impracticable, as in the case of packages wrapped in paper and sealed, the paper wrapper and seals should be carefully preserved and kept with the container. The analyst should keep the sample under lock and key, except when in his immediate custody, so that he can be certain of its identity.

All analytical data regarding the sample, including all calculations, should be entered as secured, directly on the Analyst's Record (C. 431), so that when filed it will be a complete original record of the examination of the sample.

On completion of the analysis, the analyst should enter on the Analyst's Record (C. 431) the number of subdivisions opened for analysis, the approximate amount still available in these opened subdivisions, and the date the completed analysis was reported to the chief of the station. The sample or the subdivisions opened for analysis should be resealed immediately upon completion of the analysis by the analyst, using the regular I. S. seal, upon which the analyst should write the I. S. number, the date of sealing, and his name. The sample should then be returned immediately to the sample storeroom of the station.

95. Methods of analysis.—Unless otherwise directed by the Secretary of Agriculture, the methods of analysis employed in the examination of food and drug products should be those prescribed by the Association of Official Agricultural Chemists, and by the United States Pharmacopœia. While these methods should be employed, if adequate, the courts have held in the case of foods that the Department is not restricted solely to such methods, but may employ any accurate method for determining whether or not the product is in violation of the law (Notice of Judgment 1159).

In the case of drugs the Department is restricted by the Act itself to the methods which may be employed in the examination of drugs, under the first paragraph of section 7. This restriction does not hold, however, for the examination of such products under the second paragraph of section 7.

It is frequently necessary to employ in the examination of official samples some authoritative method of analysis other than those prescribed, particularly when unusual types of adulteration or misbranding are encountered. When other than prescribed methods of analysis have been used in the examination

of an official sample, whether it develops that the case based on such sample will be contested, it is desirable that the chief of the district transmit to the Chief of the Bureau a statement of the method written out in detail.

96. Determinations to be made.—When delivering an official sample to the analyst for examination, the chief of the station, or the person designated to assign samples, should consult the available records pertaining to the collection of the sample to determine, with the analyst, the type and general scope of examination to be made. Special attention should be given to the reasons for the collection of the sample. If reference is made on the Report on Collection to a specific request for collection of the sample, the letter instructing collection should be consulted. The factory inspection files may contain information relative to the method of manufacture or preparation of the product which will give valuable indications as to the type and scope of the examination which should be made, and should be consulted when available. It will be advisable also to consider the results of examination of any other recent samples of the same product. Full information relative to any suspected adulteration or misbranding should be brought to the attention of the analyst, preferably by submitting for his inspection the actual file of records covering the collection of the sample.

The analyst should keep in mind the fact that official samples are collected for the purpose of determining whether or not violations of the Act have occurred. Official samples are rarely collected unless there is definite evidence, or at least reason to suspect, that the product is not in compliance with the law. The analysis or examination should be of such type as will show conclusively whether or not the product is in violation in the manner suspected, and should also be sufficiently comprehensive to detect any other violations which may be found in that particular class of product.

If an official definition or standard has been adopted for the product, or a tentative definition or standard issued, or an opinion relative to limits of composition announced, such definitions, standards, or rulings should be given consideration in determining the type of examination to be made, as well as in the interpretation of the results.

97. Analyzing certain classes of products.—The following suggestions are made for the analysis of certain general classes of food or drug products:

(*a*) *Quantity of contents.*—All samples of food in package form submitted in original packages should be examined for quantity of contents, whether or not a declaration of quantity of contents is made in the labeling. If a package is found to contain less than is stated on the label, a large number of packages should be examined. giving the results on individual packages, in terms of quantity and percentage variation, the average quantity found, the average percentage variation found, and the number of packages above and below the declared quantity of contents. The net contents should be reported in terms of the same system of measurement as that employed on the label indicating the quantity of contents of the package. This determination should be made in the case of drugs if the quantity of contents is declared.

(*b*) *Sherley Amendment samples.*—Before examining samples of medicinal preparations collected for consideration under the Sherley Amendment, the analyst should consult any memorandum from the Chief of the Bureau instructing collection of the sample, for suggestions relative to the examination to be made. He should also consult the most recent factory inspection report on the manufacturer to ascertain whether the formula was secured. Qualitative tests or quantitative estimation, when satisfactory methods are available, should be made for all ingredients claimed to be present.

(*c*) *Samples bearing batch numbers.*—If the units of the sample bear different batch numbers, as is frequently the case with canned condensed milk, or the Report on Collection shows that the unit packages were taken from cases bearing different batch numbers, the units representing each different batch should be examined separately. It frequently happens that some of the batches in a shipment are in violation of the Act, and the remainder in compliance.

(*d*) *Foods adulterated with water.*—Canned tomatoes containing added water usually show a marked variation in composition between different cans, since the quantity of water added is not uniform. The individual cans should therefore be examined separately for evidence of added water and determination of the general composition of the pack made on a composite sample.

(*e*) *Products showing formula.*—When the composition is stated on the labeling, or has been guaranteed, the results of analysis should be reported in the same terms. This will facilitate comparison. In addition, the results may also be reported in the usual units for reporting such determinations.

98. Recording analytical results.—The analytical results, as secured, should be entered directly on the Analyst's Record (C. 431), after the manner shown below. The quantity of material taken for a determination, the readings or weighings made, and the significant figures of the calculations should be entered in the large squares, reserving the narrow adjacent column for the recording of the exact statement of the result, which statement will be copied, subsequently, on the analytical report. The method of calculation should always be plainly indicated, abbreviating only in so far as is consistent with clearness. It should be borne in mind that the original analytical notes must be sufficiently detailed to enable the analyst to describe fully each step of the analysis and calculation, if he is requested to do so when on the witness stand. The method of analysis followed should always be indicated if there are optional methods, or if a special method has been used. The analyst should make a brief statement of his conclusions, not in legal phraseology, but in plain terms, as, for example, "deficient in protein and fat," "contains at least 10% added water," "package bears no statement of net contents," etc.

A completed Analyst's Record follows:

C. 431.—Analyst's Record.

No. *19878–R.* Material, *Gelatine (3) sealed subdiv. in Mason jars, 1 opened for analysis.* Condition of seals, *O. K.* Date received, *12/19/18.* Rec'd from *L. B. Kendricks.* Date report, *12/27/18.* Analyst, *J. H. Benton.*

		5 g. sample. (*Sensitized paper strip used in analysis and also blank on reagents attached here.*)	*Arsenic, p. p. m* 1.0
2 g. charge: Dish 17.6635, #467 17.5892 — 0.0743 g. #465 17.7095, 17.6382 — 0.0713 g.	*Ash.* (3.71%) 3.56%.	*50 g. charge:* 1 cc. *KCN* sol.—0.001 g. *Cu.* A 3.5 cc. *KCN.* B 3.0 cc. *KCN.*	*Copper, p. p. m.* (70) 60
In refrigerator overnight.	*Jelly strength at 15° C., 2% sol.* Very strong.	*50 g. charge:* Dish 9.0101, #491 8.9510 — 0.0591 g. *ZnO.* #492 9.6653, 9.6050 — 0.0603 g. *ZnO.*	*Zinc, p. p. m.* 949 (963)
On hot solution.	*Odor.* Fair.	*5 g. charge:* Dish 9.2540, #493 9.2424 — 0.0116 g. $BaSO_4$.	*Sulphur dioxid, p. p. m.* 636

Conclusions:
Excessive copper and zinc.

REPORTING ANALYSIS.

99. Reporting analytical results to district headquarters.—The report of the analytical results should be made on analytical report forms (C. 432 to C. 440). These include special forms reporting the examination of certain classes of samples, as bacteriological, cattle food, dairy products, fats and oils, flavoring extracts, and saccharine products.

100. Completing analytical report forms.—One ribbon copy and 5 carbon copies of all analytical reports should be prepared. The original ribbon copy and 4 of the carbon copies will be forwarded to the district office, the remaining carbon copy being retained for the station file.

The analytical reports should be completed in the following manner:

(*a*) The analyst should check the analytical results to see that they have been accurately transcribed, and place his initials on all copies of the report directly below the results reported by him. If 2 or more analysts make an examination of the same sample, the determinations made by each analyst should be initialed by him, so that there may be no doubt as to which results were obtained by each analyst.

(*b*) Underneath the statement of analysis should be given a description of the analyst's sample. If this is the original package a statement to that effect, together with the inspector's identification marks, is sufficient. If an original package is not examined, a full description of the analyst's sample, including the size and kind of container, the marks appearing thereon and upon the seals, I. S. pasters, and other stickers attached, should be given. The description of the analyst's sample should be verified and initialed by the analyst.

(*c*) After "Substance" should be given the name of the article, as indicated on the Report on Collection.

(*d*) After "Label" should be quoted the pertinent portions of the labeling appearing upon the original package, specifying from where taken, as, bottle label, carton label, tag, circular, etc. This should be copied from the original label, photograph, or tracing. If the important parts of the label or labels to be quoted are lengthy and there is not sufficient space to copy them on the analytical report, a label sheet should be prepared for each analytical report, and the analytical report should bear, in the space provided for copying the label, the statement "See label sheet attached."

(*e*) After "Manufacturer," the name and address of the actual manufacturer should be given. If the manufacturer and shipper are the same, this should be indicated by adding the words "and shipper," making the heading read "Manufacturer and shipper." If the manufacturer and shipper are different, the name and address of the shipper should be given immediately above those of the manufacturer.

(*f*) After "Dealer" give the full name and address.

(*g*) After "Inspector" and "Analyst" the full names, including the given names, should appear.

(*h*) After "Date shipped" preferably the date of the bill of lading or waybill should be given. In all cases the abbreviations "B/L," "W/B," "F/B," "Inv." should be prefixed, to show whether or not the date is taken from the bill of lading, waybill, freight bill, or invoice.

(*i*) After "Purchased" should appear the date the sample was purchased by the inspector, as given in the Report on Collection.

(*j*) After "Received" should be the date on which the sample was received by the station.

(*k*) After "Reported" should be the date on which the analyst reports the results.

(*l*) After "Condition of samples" should be given the number of samples opened by the analyst, and the number remaining with seals intact.

(*m*) After "Same shipment, other I. S. Nos. ———" should appear the I. S. numbers of any other samples from the same shipment.

(*n*) Under "Conclusions" should be given the deductions drawn by the chief of the station from the evidence secured and his recommendation for disposition. In determining the disposition to be recommended, careful attention should be given to the reasons for collection of the samples, and to any information in the station files relative to the practices of the manufacturer, shipper,

or dealer in the manufacture or marketing of the product in question. The analytical and inspection evidence should be carefully reviewed to determine whether or not a violation has occurred; and the sufficiency of the evidence to warrant issuing citation with or without subsequent prosecution. If the product is considered to be not adulterated or misbranded, permanent abeyance should be recommended. If the evidence is considered to be inconclusive, the unsatisfactory features should be pointed out. If there is conclusive evidence that a violation has occurred, citation should be recommended, unless the nature of the violation appears to warrant seizure action, or unless for some particular reason other disposition is considered desirable.

(*o*) The original and all carbon copies of the analytical report should be signed by the chief of the station, or other person designated to act in his place.

(*p*) Analytical reports on postseizure samples should be stamped "Postseizure No. ———," inserting the seizure number, together with the I. S. number of the preseizure samples, indicating that such number is preseizure, for the sake of easy reference.

(*q*) Preseizure reports will be stamped as such at the district office.

101. Analytical report form.—A completed analytical report follows:

C. 437.—Analytical Report—Miscellaneous. Received at I. S. Office.....

Ash (3.56%) (3.71%)	*3.64% aver.*		
Jelly strength, at 15° C., 2% solution.	*Very strong.*		
Odor	*Fair.*		
Arsenic, parts per million	*1.0.*		
Copper, " " " (70) (60)	*65 aver.*		
Zinc, " " " (968) (949)	*959 aver.*		
Sulphur dioxid, parts per million	*636.*		
J. H. B.			*J. H. B.*

Analyst's sample: Inspector's subsample in Mason jars, sealed with U. S. Dept. Agr. seal "I. S. No. 199738–R Date 12/16/18 Inspector S. A. Turner;" jar marked "199378–R S. A. Turner Gelatine."

I. S. No. *199378–R.* Substance, *Gelatine.* Lab. *Cincinnati.*
Label (*on head of barrel*): "*SPECIAL T*" and dealer's address.
(*on side of barrel*): "*GELATINE*
378 32"
Manufacturer and shipper: *John Smith & Co., Little Rock, Ark.*
Dealer: *James D. Brown & Sons Co., Toledo, Ohio.*
Insp.: *Samuel A. Turner.* Analyst: *James H. Benton.*
Date shipped, *WB 7/9/18.* Purchased, *12/16/18.* Received, *12/19/18.* Reported, *12/27/18.*
Condition of samples: *1 opened for analysis, 2 reserves.*
Same shipment, other I. S. Nos. *None.*
Conclusions: *Adulterated—exeessive copper and zinc.*
Seizure recommended.

R ARD DOE.
Chief of Station.

Conclusions confirmed. Recommend: P. A., Cite.	Conclusions confirmed. Recommendation confirmed.
..... Date: Chief of District.	..... Date: Bureau Representative.

102. Correspondence and memoranda accompanying reports.—All other facts or circumstances which the chief of the station believes should be given consideration in determining disposition should be embodied in a memorandum addressed to the district. It should always contain a reference to any pertinent factory inspection evidence, and to the character of previous shipments examined from this same manufacturer.

(*a*) In addition to any copies retained by the station, the following copies of any correspondence, memoranda, etc., having a material bearing on the shipment involved should be made for each I. S. number:

One green and 1 district carbon of letters written by the stations to inspectors, other stations, and outside parties.

Original and 1 carbon copy of letters received by the stations from inspectors, other stations, and outside parties, and also of any letters to the district office transmitting case. All copies of letters should bear the name of the party who signed the original and the name of the city from which it was written.

(*b*) If the charge in the case is based to any extent upon evidence secured in a factory inspection, an extract of the pertinent portions of the factory inspection report should be included in the case. If it is short, it may be noted on the analytical card in the space under "Conclusions." If lengthy, it should be placed on a separate sheet, of which an original and 2 copies should accompany the jacket of the case.

103. Charge sheets.—If in the opinion of the chief of the station a violation of the Act has occurred, and citation of the responsible party or parties to hearing is warranted, charge sheets setting forth the alleged violation should be prepared in the following manner:

(*a*) There shall be an original ribbon copy and 6 carbon copies for each case.
(*b*) The ribbon copy must be initialed by the chief of the station.
(*c*) If quotations from labels appear in the charge they should be carefully checked against the label, to insure correctness of wording, figures, abbreviations, signs, etc.

It is not necessary that an attempt be made to employ exact legal phraseology in the preparation of the charge. Rather an effort should be made to indicate concisely the adulterated or misbranded condition. The conversion of this charge into appropriate legal phraseology will be made by the Solicitor or U. S. attorney in preparation of the case for prosecution.

104. Forwarding reports to district headquarters.—The complete records of the case, including copies of correspondence and charge sheets, should be forwarded promptly to the district chief.

If the chief of the station considers that no adulteration or misbranding has occurred, or that citation to hearing is not warranted, the complete file should be forwarded promptly to the district office. The papers should be arranged and securely fastened in chronological order, beginning at the bottom with the memorandum requesting collection of the sample or the report on collection, if no request for collection preceded the taking of the sample.

105. Additional information analytical reports.—The Chief of the Bureau or the district office may request that a more complete or detailed examination be made by the station reporting the analysis of the sample. The additional information should be reported on a second analytical report completed in the following manner:

(*a*) The words "ADDITIONAL INFORMATION," in full capitals, should be written at the tops of these reports immediately beneath the double line.
(*b*) The further results obtained by the analyst, and a description of the package or packages examined by him should be entered in the same manner upon the original report. If a portion from the same package used in the previous analysis is examined, this fact should be stated. Any initials or marks placed on the packages, seals, and pasters at the time of the previous analysis should be indicated.
(*c*) The analytical results and description of analyst's sample should be initialed as on the original report.
(*d*) It is necessary to give only the I. S. number, the substance, the description of the analyst's sample, the laboratory, the full name of the analyst, the date of receipt, if received from some other station, the date reported, and the condition of the samples.
(*e*) Immediately after the word "Conclusions," the statement, "See original report, dated _____ from _____ Station" should appear. If the results warrant a different conclusion from that originally reached, it should be given. Reference to the letter or telegram of instructions should also be made.
(*f*) Original and all carbons should be signed by the station chief.

CHECK ANALYSIS.

106. Instructing check analysis.—After reviewing the results of analysis, the Chief of the Bureau or the district office may decide that check analysis is necessary. Check analysis may be requested at any stage in the development of the case.

If the district chief decides that citation is warranted, the need of checking the significant determinations should be carefully considered. Check analysis is necessary if the product is difficult of sampling or analysis, or if it is desirable to have as a witness an expert on that particular product. It is preferable to have the check examination made by an analyst located at the station in whose territory the prosecution will be brought, to avoid unnecessary travel.

The station selected to make check analysis will receive instructions on the Request for Check Analysis I. S. form (C. 4441). If the situation selected is not the one having custody of the sample, instructions to forward sample will issue on form Request for Check Sample I. S. (C. 442). Check analysis should be made on the inspector's original sealed subdivision if possible, to avoid unnecessary number of witnesses at trial.

Samples for check analysis must be forwarded promptly, and precedence given over general work to their examination.

107. Check analysis reports.—Check analysis should be reported on the usual analytical report forms, completed in the same manner as the additional information reports, except that at the top, immediately below the double line, should be written the words "Check Analysis."

If the subdivision is the one previously examined, the description of the sample should include, in addition to the identification description specified under analytical reports (paragraph 101), all notations or identifying marks placed on the package, label, seals, or I. S. pasters, and other stickers by the previous analysts.

DISTRICT REVIEW AND DISPOSITION OF STATION REPORTS.

108. Records to be carefully reviewed.—On receipt of the district headquarters of the station's report, all records should be carefully reviewed—

(*a*) To determine whether all pertinent records bearing on the transaction have been secured. This applies particularly to documentary records of shipment and sale, and to contracts specifying grade, quality, or composition.

(*b*) To correct discrepancies in the records, dates in connecting records of shipment, and reports of analytical results.

(*c*) To determine whether the examination has been sufficiently complete to detect any adulteration or misbranding which should be suspected because of the specific information which led to the collection of the sample, or because of the type of the product, and if necessary to request additional examination, check analysis, or further investigation.

(*d*) To determine whether the deductions of the station are correct, and the recommendation for disposition is in accord with the facts, and is supported by sufficiently conclusive analytical or inspection evidence to warrant such recommendation.

All cases are disposed of at this stage in one of four ways: (1) Permanent abeyance recommended; (2) transferred to another district; (3) submitted to the Bureau for instructions; (4) citation instructions issued.

109. Permanent abeyance after analysis.—Permanent abeyance after analysis is usually recommended because either the analytical results show no adulteration, or the evidence of violation is inconclusive or insufficient.

If the sample is from a shipment originating in the district in which analysis was made, and permanent abeyance has been recommended by the station

chief and is concurred in by the chief of the district, the latter signs the original report and crosses out the word "cite." Similar notation should be placed on all carbon copies of the report. If the district chief disapproves a recommendation by the station for citation, a memorandum should be addressed to the Chief of the Bureau, setting forth his reasons. The file forwarded to the Bureau should contain the originals, where available, or copies of all pertinent records in connection with the case. The district file shall contain copies of all essential records.

If permanent abeyance is recommended by the district chief, the stations having possession of the samples are notified on the Permanent Abeyance Notice form (C. 443). An interval of 2 months is provided to permit the Chief of Bureau to review the evidence and determine whether the disposition recommended by the district shall be approved. Unless contrary instructions are received during this period, the sample should be disposed of (paragraph 130).

110. Cases transferred to another district after analysis.—If the interstate shipment originated in another district, the records usually should be transferred promptly to that district for further disposition. All copies of the analytical reports should be initialed by the chief of the district as an indication of their correctness. The Records Transmitted form (C. 451) should be completed in triplicate. A full set of the records of the case should be transmitted and should usually consist of—

3 analytical reports (the original ribbon copy and 2 carbon copies).
1 set of labels.
1 complete set of records of sale and shipment.
3 Reports on Collection (original ribbon copy, 1 blue and 1 red carbon copy).
1 Description of Sample slip.
1 set of any correspondence or memoranda relative to the case, originals where available.

The original of the transfer sheet should be attached to the file to be transmitted. One copy should be stamped "I. S. Office" and sent to the Chief of the Bureau as a record of the transfer. The remaining copy is held in the district file. On receipt of the file at the second district office it will be handled in the same manner as a case reported by a station.

An exception to prompt transfer arises in cases where citation is considered warranted, and it is known that the party appearing in the records as shipper has no established place of business at the point of origin of shipment, but has one within the district where the sample was collected. Under such circumstances it will facilitate the development of the case if, before the file is transmitted, citation is issued to the shipper, addressed to his established place of business. Such procedure will frequently obviate the necessity for subsequent reference of the file back to the district reporting the sample.

If a hearing has been held the file transferred should contain, in addition to the records previously specified, all additional records incident to the issuance of citation and the holding of the hearing, with the same number of copies included as in the usual citation cases. The summary and recommendation sheet need not be prepared.

Records relating to postseizure and preseizure samples in seizures made in a district other than that in which the manufacturer is located should be forwarded promptly after the accomplishment of the seizure to the district in which the manufacturer is located, for consideration as to citation under section 2 of the Act, and not held until the court action is completed. Copies of the shipping memoranda should be retained by the district making the seizure.

111. Cases submitted to Chief of Bureau for instructions.—If the district can not decide whether or not a violation has occurred, or no precedent established appears to apply to the conditions under consideration, the complete file, arranged as for samples recommended for permanent abeyance after analysis, should be submitted to the Chief of the Bureau for instructions. The file should be accompanied by a memorandum setting forth fully the points at issue, together with any other pertinent information not included in the records. Should the Chief of the Bureau decide that citation is not warranted, the sample will be placed in permanent abeyance. If citation is instructed, all necessary records previously transmitted will be returned to the district office. The subsequent procedure will be the same as in samples on which citation is instructed by the district.

112. Instructing citation.—When, in the opinion of the district office, citation to hearing is warranted, or instructions to issue citation are received from the Chief of the Bureau, the district office should review the charge of violation of the Act prepared by the station, if charge sheets have been prepared. If in his opinion the charges preferred cover all violations fully, and are stated in satisfactory form, the chief of the district should approve them by initialing the original of the charge sheet and signing the original of the analytical report, crossing out the letters "P. A." after "Recommended." If charge sheets have not been submitted by the station, they should be prepared in the district office. Instructions to issue citation to hearing will then be sent to the station, using the Instructions to Cite form (C. 444).

The original Report on Collection, original analytical report, and the original charge sheet are removed and forwarded to the Chief of the Bureau.

The following records shall be sent to the station holding the hearing, less such of them as may be already in the possession of the station:

3 copies of the charge sheet.
1 analytical report.
1 set of labels.
1 complete set of records of sale and shipment.
1 Report on Collection.
1 set of any correspondence or memoranda relating to the case.

CITING FOR HEARINGS.

113. Authority for citations.—The Federal Food and Drugs Act provides that after specimens of foods and drugs have been examined by or under the supervision of the Bureau of Chemistry, and are considered to be adulterated or misbranded, notice shall be given to the party or parties who appear to be responsible for the shipment or sale of such articles in violation of the provisions of the Act (section 4 of the Act and Regulation 5, as amended). This notice shall inform the party cited in what respect it is charged that the provisions of the Act have been violated; shall contain sufficient information relative to the shipment in question so that it can be readily identified by the party cited, and shall set the place and date for the hearing at which an opportunity will be accorded the party cited to appear and present evidence, either oral or written, in person or by attorney or other authorized party, to show cause why the matter should not be referred to the Department of Justice for prosecution. Citation is a formal notice that a violation of the Act is alleged. It should be correct in every particular in order not to prejudice further action on that case.

114. Appointment of hearing.—Immediately upon receipt of the citation instructions by a station the proper appointment of hearing, prepared on the Domestic Appointment of Hearing form (C. 453), should be sent by registered

mail to the party cited. A ribbon copy and 4 carbon copies of all appointments of hearing should be prepared, except in those cases developed from samples collected by State or city inspectors, when 5 carbon copies should be made.

115. Completing appointment of hearing form.—The appointment of hearing form should be completed in the following manner:

(*a*) Insert in the upper right-hand corner the proper I. S. number, complete the heading by inserting the station address and date, and name and address of the party to whom the appointment of hearing is to be mailed.

(*b*) Complete the line reading "Sample of" by inserting the name of the product as given in the Report on Collection.

(*c*) Under "Label," quote the labeling from the original label, if available. The entire label need not be quoted, but the portions which are quoted must be correct.

(*d*) Under "Collected_____ _____ from _____ at _____ on" insert the name and address of the dealer, and the date collected.

(*e*) Under "The product was _____to_____on" insert name of the firm to which the party cited invoiced the goods, and date of invoice, or name of firm to which the party cited made shipment and the date. In the latter case substitute "Shipped" for "Invoiced." In carload shipments give car number in this space, for identification.

(*f*) Under "An opportunity will be accorded you, etc." insert the date, place, and hour of hearing.

An appointment of hearing form completely filled out follows:

C. 453.—Domestic—Appointment of Hearing.

In reply refer to
I. S. No. *199378–R*

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF CHEMISTRY.

204 Old Customs House, St. Louis, Mo., January 27, 1919.

John Smith & Co.,
Little Rock, Ark.

GENTLEMEN:

You are hereby notified that a sample of *Gelatine* labeled

(*On head of barrel*) "*SPECIAL T*" *and dealer's address.*
(*On side of barrel*) "*GELATINE 378 32*"

was collected by an authorized inspector of this Department from *James D. Brown & Sons Co.,* at *Toledo, Ohio,* on *Dec. 16, 1918,* and examined under the supervision of this Bureau.

The product was invoiced by you to *James D. Brown & Sons Co., Toledo, Ohio,* on *July 10, 1918.*

The sample appears to be adulterated or misbranded, or both (section 7 defining adulteration and section 8 defining misbranding, quoted on reverse side), as specified in the accompanying charge sheet.

It is a violation of the Federal Food and Drugs Act to manufacture, sell, or offer for sale in the District of Columbia or the Territories, or to ship or deliver for shipment in interstate commerce, or to export or offer for export to a foreign country any adulterated or misbranded article of food or drugs; or to receive in any State, Territory, or the District of Columbia from any other State or Territory or the District of Columbia or foreign country and subsequently deliver or offer to deliver in original unbroken packages for pay or otherwise any adulterated or misbranded article of food or drugs (sections 1 and 2).

No party will be prosecuted if he can establish a valid guaranty under the Federal Food and Drugs Act (section 9).

An opportunity will be accorded you on *Monday, Feb. 10, 1919,* at *11 a. m., Room 204, Old Customs House, 3rd and Olive Sts., St. Louis, Mo.,* to present evidence, either oral or written, in person or by attorney, to show cause why the matter should not be referred to the Department of Justice for prosecution as a violation of the provisions of the Federal Food and Drugs Act. If you do not make answer on the date mentioned, the matter will be decided on the evidence at hand.

By direction of the Secretary of Agriculture:

Respectfully,

D. L. Carson,
Chief *St. Louis* Station.

(*Enc.: Legal status sheets, charge sheets, forms.*)

116. Legal status blanks.—Legal Status of Firms Cited forms (C. 454) should be sent to the party cited, and attached to the appointment of hearing form. These should be prepared in triplicate, giving I. S. number, followed by name and address of party cited. The space for the current date should be left blank, to be filled in by the party cited. If returned undated, the date of receipt should be stamped in this space.

117. Request triplicate copies.—It is desirable to obtain when practicable triplicate copies of all replies, exhibits, and papers filed by the party cited. A request for triplicate copies sent with the citation notice will be complied with in most cases.

118. Issuing citations.—The original appointment of hearing notice, with the legal status blanks and form letter accompanying the citation notice, should be forwarded to the party cited by registered mail, and a return receipt obtained. At the time of mailing, carbon copies of the appointment of hearing, with charge sheet attached, should be sent to the Chief of the Bureau, and to the district office. If the sample was collected by a State or city official, another set should be sent to his headquarters.

If more than one shipper is involved, cite the last shipper first and the others in turn until the responsible party is reached.

If a second party to be cited is located in another station territory in the same district, records completed to include the hearings already held should be forwarded direct to such station. A copy of the letter transmitting the case should be forwarded to the district office. If such party is located in another district, the records should be returned to the district office.

The district office should then transmit the records to the chief of the other district, with a memorandum summarizing briefly the reasons for transfer. If it develops after the hearing that this party is responsible for the violation, the case should be handled by that district. Should it appear, however, that a party located in the first district is the responsible party, the complete records should be returned to the first district.

119. Adjourned hearings.—When, for any sufficient reason, adjournment of hearing is requested by the party cited, the station chief may grant a reasonable extension of time, reporting all the facts to the district for notification to the Chief of the Bureau. Reasonable requests should be granted, but extension of time in the appointment of hearings that will cause unnecessary delays should not be granted.

120. Transfer of hearing to another station.—If for satisfactory reasons the party cited requests the transfer of the hearing to another station within the district, the complete records should be forwarded direct to the station designated, and the party advised that he will be informed by the second station regarding the date of the transferred hearing. After the hearing, the records should be referred to the first station for preparation of the summary and recommendation and reporting. If transfer to a station within another district is requested the transfer should be made through district headquarters.

121. Hearings under amended charge.—If after hearing it ever develops that the charge preferred did not cover all essential violations which have occurred, the chief of the station should forward a new set of charge sheets to the district office for approval before a second citation is issued.

122. Combining cases for citation.—Cases may be combined in the district office for citation, provided (1) the manufacturer is the same, (2) the product is the same, and (3) the charge is identical. There need be but one charge. Only one citation notice need be issued, and one hearing held for the com-

bined case. The name of the party cited must be not only similar, but identical for each number in the combination. For instance, cases against Samuel Brown and Samuel Brown & Co. can not be properly combined, although they are the same parties but doing business under different names. The product must be the same, that is, tomato pulp and tomato puree can not be combined in one citation. Different brands of the same product may be combined, however, always provided that the name of the party to be cited and the charge preferred are also the same.

The combined case is thereafter handled as a unit. Combinations are designed to save time and paper. If all papers and records except the individual collection reports, analytical reports, and labels apply to all numbers, and the recommendation is the same on all numbers, and the matter can be handled as a unit, a combination is wise and economical.

HOLDING HEARINGS.

123. Nature of the hearing.—The hearing is informal. Personal appearance of the party cited is not mandatory. Representation may be had by attorney or other person duly authorized, or answer made by letter. If appearance is made in person, or by attorney or other authorized party, the following instructions should be observed:

(*a*) The person who is to conduct the hearings should review carefully the records in advance, in order to avoid overlooking any facts which should be developed.

(*b*) The hearings should be confined to questions of fact, since the purpose of the hearing is to give the party cited an opportunity to show cause why the matter should not be referred for prosecution. All statements offered in explanation or mitigation should be reported.

(*c*) The full names of all persons making appearance and their business relation to the party cited should be secured, to call attention to the exact violations charged, so that they will be brought clearly to the attention of the person making appearance.

(*d*) The legal status of the party cited must be secured, as outlined in the legal status blank. If claim is made at the hearing, or in correspondence subsequent to the citation, that the firm responsible for the interstate shipment has been reorganized and a new company formed, it should be definitely ascertained whether or not the charter of the company responsible for the interstate shipment was actually surrendered upon the reorganization of the new company. The date and exact nature of the change should be reported.

(*e*) Responsibility for the shipment should be established, method of delivery to common carrier determined, and the date and route of shipment confirmed.

(*f*) Only general conclusions reached by the analyst and general statements as to why a product is considered adulterated or misbranded may be given out at hearings. Under no circumstances should exact results of analysis or the inspection or investigational evidence on which the conclusions are based be given out. Statements which might be construed as approval of labeling should be scrupulously avoided. Also avoid any statement which might be interpreted as forecasting the probable disposition of the case.

(*g*) *Hearings involving quantity of contents.*—At all hearings involving a charge under the Amendment of March 3, 1913, it should be brought out clearly that the Act requires a plain and conspicuous statement of the quantity of contents, which statement should be definite and without qualification other than provided by the regulations. This should appear as a matter of record in the minutes of the hearing.

(*h*) *Sherley Amendment hearings.*—It should be made clear to the respondent that the hearing is based on charges of shipping into interstate commerce a medicinal preparation misbranded as to therapeutic statements, that revision of the label is not the purpose of the citation, and that a revision will not operate as a bar to any action that the Bureau may decide to take.

(*i*) Where a number of citations have been issued at the same time to the same party on a number of samples of the same product, care should be taken to see that replies are made to all the charges in every case.

If reply is made in writing, the following suggestions should be observed:

Written replies should be in triplicate, the original for the Chief of the Bureau and 1 copy to be forwarded to the district. All letters, labels, cartons, circulars, booklets, samples, etc., which are submitted by the respondent as exhibits should be identified with I. S. number, and, in case of labels, cartons, circulars, and booklets, it should be indicated how and where used, and whether they are revisions.

If a party cited makes no reply to a citation, a follow-up letter should be sent. The registry return receipt, showing receipt of the appointment of hearing, and copies of follow-up letters should be forwarded to district headquarters.

124. Establishing a guaranty under the Act.—Section 9 of the Act provides that no dealer shall be prosecuted under the provisions of the Act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party residing in the United States, from whom he purchases such articles, to the effect that the same are not adulterated or misbranded within the meaning of the Act.

Regulation 9, as amended (F. I. D. 153), provides the manner and form in which the guaranty shall be made. Paragraphs (*d*) and (*e*) of this decision read as follows:

(*d*) Each guaranty to afford protection shall be signed by, and shall contain the name and address of, the wholesaler, manufacturer, jobber, dealer, or other party residing in the United States making the sale of the article or articles covered by it to the dealer, and shall be to the effect that such article or articles are not adulterated or misbranded within the meaning of the Federal Food and Drugs Act.

(*e*) Each guaranty in respect to any article or articles should be incorporated in or attached to the bill of sale, invoice, bill of lading, or other schedule, giving the names and quantities of the article or articles sold, and should not appear on the labels or packages.

To be a valid defense, the guaranty must be direct from the person who sold the goods to the person offering the guaranty as a defense. It must be established that the product at the time of sale or shipment was in the identical condition and bore the same label as when received from this guarantor.

If it is claimed that a general guaranty agreement existed between the parties to the transaction, the party cited should be requested to submit an authenticated copy of such guaranty agreement. In every instance where a guaranty is claimed, an authenticated copy should be secured. All claims of a legal guaranty should be carefully scrutinized to ascertain whether or not the guaranty applies to the shipment in question, and is in proper form.

125. Dealer's sample.—If the party cited requests a portion of the official sample, the chief of the station should give careful consideration to the number of original sealed subdivisions of the sample on hand, keeping in mind the necessity of having an original sealed subdivision for check analysis. If a suitable subdivision is available, it may be forwarded to the responsible party. If no sample is available, the party should be informed promptly. If the sample is not being held at the station receiving the request, the district office should be so advised.

SUMMARIZING AND REVIEWING EVIDENCE.

126. Station should summarize evidence.—As soon as the verbatim transcript of the hearing has been prepared, or written reply received in answer to the citation notice, or in case no reply has been received, after a reasonable interval, to either the citation notice or subsequent follow-up letter addressed to the party cited, the station should prepare a summary of the evidence and a recommendation as to the disposition of the case.

127. Preparing summary and recommendation sheet.—An original and 4 carbon copies of the summary and recommendation for each I. S. number should be prepared, except in combined cases, which are considered and handled as a unit case. The summary and recommendation should contain the following information:

I. S. number.
Seizure number, or statement "No Seizure Involved."
Substance.
Defendant.—Under this heading shall appear the names and addresses of all parties who are liable to prosecution.
Legal status.—It is necessary that the legal status of the defendant concern, both on the date of shipment and on the date of hearing, be obtained. In case the party cited for hearing enters no appearance or makes no reply, the legal status may often be secured by correspondence with the following: Secretary of State (for corporations), county treasurer, city clerk (for large cities), county clerk (for small towns), postmaster.
Date of shipment.—This should be the date of the bill of lading, waybill, parcel post, or manifest, and show from which taken.
Description of analyst's sample.—This refers only to the affidavit analyst's sample. If a description of the portion examined by him is shown on the analytical report, a reference to the report is sufficient. If not, a reference should be made to the record upon which given.
Analysis.—Designate all stations or laboratories making examination.
Analyst to make affidavit.—The full name of the analyst or analysts whose affidavit or affidavits will cover fully the charge should be given. Whenever practicable, name but one analyst.
Additional witness for trial.—Give the full name of any analyst, expert, or inspector witness necessary for trial.
Charge.—Under this caption the desirability of quoting the charge in full should be emphasized. An exception to such cases is justified only when the charge is extremely long and complicated. In these cases, however, a brief summary of the character of the charge should be indicated.
Recommendation.—Under this heading should appear the words "Prosecution," or "Permanent Abeyance with Notice," or "Permanent Abeyance without Notice."
Reasons for recommendation.—A brief, concise, but comprehensive statement covering the following points should be given:
(*a*) Reason for collection of sample.
(*b*) If collected by a city or State official, mention that fact.
(*c*) A brief summary of the evidence submitted by the party or parties cited to hearing.
(*d*) A summary of all facts pertaining to the case.
(*e*) Conclusions.
(*f*) If permanent abeyance without notice is recommended, reasons for withholding notice must be given.

In prosecution cases, a review should be made of:

(*a*) A summary of documentary evidence.
(*b*) Factory inspection and investigational evidence to support conclusions.
(*c*) Argument to support recommendation, as financial gain, fraud, etc.
(*d*) General character of the defendant firm.
(*e*) Previous cases of the same or another shipper or manufacturer having a bearing on the issue in the case.
(*f*) If a second offense, mention that fact.

128. District review of the evidence.—On receipt of the completed records at the district headquarters, the papers should be checked, and any additional records necessary secured. In general, the review of the case involves consideration of the same factors considered by the station, and if prosecution seems warranted particular attention should be given to the following features:

(*a*) Sufficiency of interstate evidence against the party charged with the violation.
(*b*) Completeness of analytical evidence, including advisability of check analysis.
(*c*) Additional pertinent evidence available.

(*d*) Estimate possible financial gain to the manufacturer and the demoralizing effect on trade by the practices involved.

(*e*) Record of party responsible, including any previous prosecutions or warnings through citation, and possibility of charging second offense.

If in agreement with the disposition recommended by the station, the chief of the district should approve the summary and recommendation, and transmit the case with any additional facts or arguments deemed relevant in a memorandum to the Chief of the Bureau. If the chief of the district makes a recommendation differing from that of the station he should set forth his reasons in a memorandum to the Chief of the Bureau. If permanent abeyance is recommended by the chief of district, Permanent Abeyance Notice (C. 443) should issue to each station where a portion of the sample is held.

129. Transmit complete records to Chief of Bureau.—The completed case should be transmitted to the Chief of the Bureau, and should include the following:

(*a*) Letter or telegram directing collection of sample.
(*b*) Report on Collection (blue carbon).
(*c*) Contract, confirmation of sale or purchase, shipping instructions, and correspondence between dealer and his seller prior to the collection of the sample, if any.
(*d*) Invoice, if any.
(*e*) Shipping records.
(*f*) Dealer's receipt or certificate.
(*g*) Label.
(*h*) Correspondence, memoranda, etc., prior to citation.
(*i*) Analytical reports, including original, additional information, and check reports.
(*j*) Charge sheets.
(*k*) Appointments of hearing.
(*l*) Replies to citations in chronological order, including transcripts of hearings, interviews, written replies, exhibits, and supplementary statement sheets submitted with any of these, registry return receipts, and legal status blanks.
(*m*) Summary and recommendation sheets.

130. Disposition of unused portions of official samples.—Official samples on which the district office has recommended permanent abeyance should be retained in the station sample storeroom for 2 months after the date of such notice unless instructions to the contrary are received within this period, due to reconsideration of the case.

If a case has been transmitted to the Department of Justice for prosecution, the samples must be held until the case is closed. Notice of termination of case is issued by the Bureau to the district, which in turn should advise any station in the district at which samples are being held. The station may then dispose of any remaining portions of the sample.

The manner in which samples should be disposed of depends, in the main, upon whether they represent adulterated or misbranded products. Adulterated or misbranded products must not be sold. Samples of products not in violation of the Act may be sold. Whenever practicable, labels should be removed from the containers of samples to be sold. Packages from which labels can not be removed should be opened, and their contents placed in new packages. Arrangements may be made with the collector of customs by means of which samples suitable for sale may be sold from time to time in connection with the regular customs sales.

BUREAU REVIEW OF EVIDENCE.

131. Review by staff expert.—Upon receipt by the Bureau of the papers of an I. S. case from the districts, the case is immediately jacketed, checked for missing records, etc., indexed, and referred to the Office of the Chief or Assistant

Chief, or to the staff expert charged with reviewing the particular product or products on which the case is based.

132. All factors reviewed.—This review covers all the factors involved, including the sufficiency of the analysis, the analytical evidence available, either in the jacket of the case or elsewhere, additional determinations, if needed, and the need of trade or expert witnesses in the event of contest in court.

133. Deciding action.—If permanent abeyance has been recommended by the district chief, and this recommendation is concurred in by the staff expert, the case is placed in permanent abeyance without further reference. If the expert disagrees with the recommendation of the district chief, the matter is handled between the expert and the district chief until an agreement is reached. If agreement can not be reached, the case is referred to the Chief of the Bureau with a statement of all the facts, for final decision, in so far as the Bureau's action is concerned. If the district chief recommends prosecution and the expert agrees, the case goes to the Chief of the Bureau for decision. If the expert disagrees, the matter is handled as described above, with final reference to the Chief of the Bureau for decision.

134. Notice to manufacturers if a case is placed in permanent abeyance.—When a case on which a hearing has been held is placed in permanent abeyance, a notice in the following form is sent to all parties cited to a hearing in connection with the case, unless instructions to withhold notice are issued:

NOT FOR PUBLICATION.

In case I. S. No. _____, covering the interstate shipment on or about _____ of _____ in which you were cited to appear before the Department for a hearing under section 4 of the Food and Drugs Act, you are advised that the Department has decided not to recommend prosecution.

It must be clearly understood that this notice applies only to the particular shipment of the article specified above, and that this action is not to be construed as an approval of your product or of your labeling; neither is it a bar to action on other shipments if circumstances appear to warrant the same.

Respectfully,

_____

Secretary.

This notice is issued in accordance with the instructions of the Secretary of Agriculture, and must be sent in every instance except when the Bureau has strong reasons for believing that the receipt of such abeyance notice will be misconstrued, or that it will be put to improper uses. Therefore, chiefs of stations and districts, for the guidance of the Bureau, should not fail to indicate in all recommendations for permanent abeyance whether permanent abeyance notice should or should not issue. If notice is to be withheld, good reasons should be given to support the withholding of the notice.

COMPLETING PROSECUTION CASES.

135. Solicitor's review of cases.—Such I. S. cases as are approved for prosecution by the Chief of the Bureau are next referred to the Solicitor's Office, where consideration is given to them. This includes a review of all the shipping records to determine the evidence of I. S. shipment, the sufficiency of the evidence showing a violation of the law, as well as a determination of the proper defendant. If prosecution is approved, the information is then prepared, as are all affidavits required of the inspector, analysts, or other witnesses, to support the information. These affidavits are sent to the Chief of the Bureau

for transmission to the individuals who are to execute them. Upon execution and return to the Chief of the Bureau, they are sent to the Solicitor. The case is then transmitted by the Solicitor to the Department of Justice for reference to the United States attorney of the court having jurisdiction.

136. Affidavits of members of the Bureau.—Whenever it becomes necessary for an employee of the Bureau of Chemistry or any other person to make an affidavit covering analyses, inspection, identification, delivery, or sale of interstate samples, acknowledgment should be made, preferably in the order named, first, before a clerk of a United States court, second, before a United States commissioner, and third, before a justice of the peace or notary public having authority to administer oaths or affirmations. When affidavits are executed before a notary public the document must bear his seal and the date of the expiration of the notary's commission.

Before executing an affidavit, it should be carefully checked to see that all statements contained therein are true to fact.

Relative to the payment of fees of the officer before whom an affidavit of this kind is executed, it was held in re clerk's charges, etc. (5 Fed. Rep., 440), that the services by a clerk of a United States court, whether ordered by the duly appointed officers of the Government or imposed by a statute of the United States, are proper charges against the United States if such services are covered by the terms of the fee bill (Rev. Stat., S28). Under the terms of this decision, it appears that the fee for administering an oath or affirmation to an official or other persons in the enforcement of the Food and Drugs Act is a proper charge against the United States, and such fee should be payable from the appropriation, "Fees of Clerks," etc., and not from appropriations of this Department. If payment in advance is demanded by a clerk of a United States court for administering an oath under the Food and Drugs Act, the matter should be called to the attention of the Department.

When it is impracticable to make affidavit before a clerk of a United States court, and it is necessary to appear before a United States commissioner, justice of the peace, or notary public, the legal rate for such service should be paid and included in the reimbursement account. United States commissioners are authorized to charge a fee not to exceed 10 cents for such service.

137. Affidavits by former employees.—Payment may be made to former analysts and inspectors for fees paid for executing affidavits, the execution of which has been directed by the Solicitor's Office, and the amount included in reimbursement accounts of those officers and employees having authority to incur such expenses. In the absence of such authority, such charges should be submitted on a Form 5 voucher drawn in favor of the former employee executing affidavits (see paragraph 104, Fiscal Regulations, 1917).

138. Witnesses, Bureau employees.—When witnesses are needed at the trial of cases, United States attorneys, by letter or telegraph, notify the Chief of the Bureau through the Solicitor of the Department, or notice is given by service of subpœna direct on the witness or through the Chief of the Bureau. As soon as the United States attorney's request is received, witnesses are notified immediately through chiefs of districts or stations, by letter or telegraph, of the time and place they are to present themselves. When subpœnaed directly, notify the Bureau immediately. Traveling expenses incurred are charged to the general station letter of authorization, or, in the case of inspectors having individual letters of authorization, to such letters. A witness should always take with him his analytical notes and all other data which will be of service. In the case of seizure actions he must also take the exhibits in the case. If, however, these are not in his possession, he should take immediate steps to have such

exhibits sent to him, in care of the United States attorney in charge of the case.

United States attorneys sometimes request chiefs of stations and inspectors to advise the Bureau that certain cases are scheduled for trial, and that they so advise the Bureau and secure the attendance of the necessary witnesses. Notification of trial and the need of the witnesses transmitted in this manner are not considered official by the Department, and can not be acted on unless approved by the Solicitor. Nevertheless, the Bureau should be so advised for its information. No positive instructions based upon this information will be issued to witnesses to proceed to the place of trial until approved by the Solicitor. United States attorneys making such requests should be advised of the Department's attitude, and asked to communicate with the Solicitor, who in turn will advise the Bureau.

On leaving their stations to attend a trial witnesses must advise the district office by telegraph of the railroad, train number, and time of departure, in order that they may be communicated with if necessary. Similar information should be sent to the district office on leaving place of trial. Notify the United States attorney and also the chief of station, if a station is located at such place. Witnesses will be communicated with through the chief of station or United States attorneys. On leaving the city witnesses located in Washington must notify the Interstate Office of the Bureau of the railroad on which they will travel, the train number, time of departure, etc. Witnesses who are regular employees of the Bureau will not accept any fees, per diem, or traveling expenses from the court. Such expenses are chargeable to the Bureau under letters of authorization issued to stations and inspectors.

The employment of former employees of the Bureau as witnesses on cases based upon work performed in their official capacity while in the employ of the Bureau will not be on the basis of expert witnesses.

139. Engaging witnesses other than employees.—Arrangements for the employment of experts and trade witnesses should be made as long before the trial as possible. No employees of the Bureau of Chemistry shall engage the services of a witness not connected with the Department until after approval for such employment has been secured from the Secretary of Agriculture. As a basis for securing the approval of the Secretary for the employment of experts, there should be transmitted to the Chief of the Bureau a statement setting forth the fee the witness requires for his services, his qualifications, and a digest of the testimony he is expected to give. In negotiating for the services of an expert witness he should be informed that he will be allowed railroad and Pullman fare where travel is involved, in addition to his fee and a $4.00 per diem in lieu of subsistence, and all other usual expenses. For a more detailed statement concerning the employment of expert witnesses, reference should be made to the instructions which have been issued from time to time.

140. Assistance to district attorneys.—It is the desire of the administrative officers of the Bureau to maintain at all times cordial relations with United States attorneys. Inspectors and other members of the Bureau are expected to render such assistance to them as they may be called upon for, in so far as this assistance in nowise invades the relations between the Solicitor of the Department and the United States attorneys. Members of the Bureau should refer United States attorneys to the Solicitor when questions involve departmental decisions, new prosecutions, or any matters coming within the jurisdiction of the Solicitor, and for which his office is responsible as the representative of the Department of Agriculture in its dealings with the Department of Justice.

PROCEDURE IN SEIZURES.

141. Course of a seizure action.—Section 10 of the Food and Drugs Act provides that shipments in violation of the Act may be proceeded against, "and seized for confiscation by a process of libel for condemnation." The usual course of a seizure action follows:

(*a*) Collection and examination of sample.
(*b*) Report and recommendation by station.
(*c*) Seizure recommendation by the district to the Bureau.
(*d*) Bureau action on the recommendation: If approved, it is transmitted with the Bureau's approval to the Solicitor; if disapproved, the district is so notified with reasons for disapproval.
(*e*) Solicitor's action on the recommendation: If approved by the Bureau and by the Solicitor, it is referred to the Secretary and when approved by him to the United States attorney for the district in which the goods are located, with request that he cause seizure of the product to be made. The Bureau is also notified of the approval, and in turn notifies the district office which requests the station to assist in effecting seizure. If disapproved, it is returned to the Bureau with reasons for disapproval.
(*f*) The United States attorney prepares a libel of information upon which a warrant of seizure is issued by the appropriate court, directing the United States marshal to seize the goods.
(*g*) The United States marshal, aided by an inspector who locates and identifies the goods, effects seizure.
(*h*) The station forwards report of consummation of seizure, with copy of the libel, to district headquarters, and it is transmitted through the Bureau to the Solicitor.
(*i*) Court action: Default decree where no claimant appears in the case; consent decree where a claimant appears and admits the allegations of the libel. The goods are disposed of according to court order. Trial of the issues involved by the court with or without a jury as agreed upon by the litigants, where a claimant appears but enters a denial to the allegations of the libel. A verdict for the Government results in the goods being disposed of according to court order. A verdict for the claimant results in a dismissal of the libel.
(*j*) The United States attorney notifies the Solicitor of the termination of the seizure action.
(*k*) The Solicitor notifies the Bureau of the termination of the seizure action, and prepares notice of judgment which is published by the Department.
(*l*) The Bureau notifies the district of the termination of the seizure action, and the district then proceeds to the consideration of the case under section 2 of the Act.

SAMPLING FOR SEIZURE.

142. When a shipment may be seized.—Seizure action is possible as soon as a shipment has been received by a carrier for interstate transportation. A competent form of proof of such receipt is the carrier's execution of the bill of lading. Seizure is possible at any time during transit. Seizure is possible also after the shipment has arrived at destination, (1) if it remains unloaded, (2) if it remains in the original unbroken packages, or (3) if unloaded and no longer in the original packages but still unsold. Seizure is possible in the case of shipments imported from a foreign country for sale, or designed for export to a foreign country, or of foods or drugs sold or offered for sale in the District of Columbia, or the Territories, or insular possessions of the United States. An accurate inventory of the stock available for seizure should be made when samples are taken for seizure consideration. If the quantity seized varies appreciably from the amount reported by the inspector as available for seizure an explanation is necessary.

That part of section 10 of the Food and Drugs Act which relates to shipments that may be seized is as follows:

SEC. 10. That any article of food, drug, or liquor that is adulterated or misbranded within the meaning of this Act, and is being transported from one State, Territory, District, or insular possession to another for sale, or, having

been transported, remains unloaded, unsold, or in original unbroken packages, or if it be sold or offered for sale in the District of Columbia, or the Territories, or insular possessions of the United States, or if it be imported from a foreign country for sale, or if it is intended for export to a foreign country, shall be liable to be proceeded against in any district court of the United States within the district where the same is found, and seized for confiscation by a process of libel for condemnation.

143. Collecting seizure samples.—Seizures may be instituted upon investigational samples, providing the interstate evidence is complete. Such samples may be collected either before shipment or at any time during transit, or after the shipment has arrived at destination. Samples collected before or during shipment may be given investigational numbers if necessary. Later, if desirable, they may be made official and assigned official numbers. Such investigational samples should be sealed. Occasion may arise when it would be more desirable to collect a new official sample from the product after its arrival at destination than to make official the investigational samples. In such cases the official sample should be reported for consideration as the original official sample, and the investigational sample should be referred to in the report on the official sample. While seizures may be accomplished upon investigational samples, however, it is always better to collect an official sample when practicable, so that if seizure recommendation is not approved the case may proceed for consideration under section 2 of the Act.

Preseizure samples are those samples upon which the seizure recommendation is based, and, as already explained, may be either official or investigational.

Postseizure samples are always official. They are collected either at the time of seizure or after seizure when an order from the court has been obtained permitting the collection.

DEVELOPING SEIZURE ACTION.

144. Promptness and accuracy essential in handling seizures.—Time is an essential element in seizures. Accurate and complete collection reports should be forwarded immediately to the station analyzing the sample, having attached to them a letter or other memoranda directing attention to the desirability of seizure consideration. An effective and convenient method for showing that seizure action should be considered is provided by the Bureau in the form of a 3 by 5 yellow seizure card (C. 428). Upon its receipt at a station, a report suggesting seizure consideration should be brought promptly to the attention of the proper person.

145. Analysis of seizure samples.—Samples submitted for seizure consideration are collected usually as the result of specific information relating to the condition or character of the product, or because the inspector had reason to suspect gross adulteration or misbranding. The analysis should be directed to the detection of the suspected violation, and should be sufficiently complete to establish conclusively whether the product is adulterated or misbranded. Examination of such samples should be expedited, since its object is the seizure of the shipment before it can be used or distributed. Where facilities for certain special examination are not available in the district, the examination is usually made by a Bureau staff expert.

146. Station recommendation for seizure.—If in the opinion of the chief of station seizure is warranted, the results of examination, together with the essential records of interstate shipment and necessary information relative to the location of the goods and the amount available for seizure, should be

reported immediately to district headquarters. If there is urgent need for haste, seizure recommendation should be made by telegram.

147. District recommendation for seizure.—If in the opinion of the chief of the district seizure is warranted, a recommendation containing complete information on the following points should be forwarded to the Chief of the Bureau:

(*a*) *Seizure number.*—Number assigned by district.
(*b*) *I. S. number.*—Sample number.
(*c*) *Product.*—Name without brand.
(*d*) *Shipper.*—Name and address.
(*e*) *Shipping point.*—Place from which shipped.
(*f*) *Date shipped.*—Date of bill of lading; otherwise, waybill date.
(*g*) *Route.*—When shipment has arrived at destination, give name of carrier making delivery and full routing if available. If located at point of origin or en route, give name of carrier in whose possession goods may be located and full routing when available. Legal corporate names of carriers should be given. If transported otherwise, as by dray, give name of driver and state if dray is owned by consignor.
(*h*) *Consignee.*—Name and address. If goods are not located at consignee's address but stored elsewhere or distributed, give location, with name of each party, in whose custody each portion available for seizure is held.
(*i*) *Number and kind of packages.*—Number of shipping packages; kind, i. e., case, barrel, etc.; size or weight of bulk packages; number and size of unit packages.
(*j*) *Amount available.*—Amount on hand available for seizure.
(*k*) *Labeling.*—Labeling on shipping and retail packages should be given. If seizure is recommended by letter, send labels if available. When seizure is recommended by telegram, significant portions of labeling should be quoted, indicating where appearing.
(*l*) *Station at which examined.*—Name.
(*m*) *Name of analyst.*—Full name, including given name.
(*n*) *Analysis or examination and conclusions.*—If submitted by letter, give complete examination; copy of analytical report may be sent. If by telegram, all significant data should be included. If, in making analysis, there has been departure from standard methods, give name of method. Give brief statement of conclusions.
(*o*) *Additional evidence.*—Include digest of any pertinent evidence available from factory inspection reports, trade experts, etc.
(*p*) *Charge.*—Indicate sections and paragraphs of the Act under which adulteration or misbranding is charged.
(*q*) *Previous action.*—Call attention to any recent seizures of this firm's products or prosecutions brought against them which have bearing on the matter in question.
(*r*) *Financial gain.*—Where practices demoralizing to trade are encountered, give estimate of financial gain accruing, if material.
(*s*) *Inspector.*—Full name of inspector collecting sample as the person who can identify the goods and furnish records showing interstate shipment.

148. Reporting seizures direct to district attorneys.—From time to time stations will be requested to report the results of the examination of designated products directly to the United States attorney for the purpose of seizure. This is particularly applicable to certain perishable products, and to certain products when distribution would be accomplished before seizure could be effected through the regular routine procedure. In such cases the districts and stations will be notified in advance, and should never report products directly to the United States attorney for seizure until specific authority for such action has been granted.

Reports to the district attorney should be in written form by the chief of the station, never verbally, and should include the I. S. number, the name of the product, the number and character of the packages, labeling, consignor, consignee, date of shipment, common carrier, full name of inspector who can prove interstate shipment, full name of analyst, and the violation charged

against the product. In addition to the date of seizure, amount seized, where seized and where stored, the station's report to district headquarters should recite the date and character of authority for the procedure, and be accompanied by triplicate copies of the statement of facts to the United States attorney and by copy of the libel.

ACCOMPLISHING SEIZURE.

149. District attorney files libel.—After seizure action has been approved by the Solicitor, the information is transmitted by him to the United States attorney for the district in which the goods are located, with a request that they be seized. This information is usually sent by telegram, and at the same time the district headquarters is advised that the seizure action has been approved and is requested to instruct the inspector having knowledge of the case to confer with the United States attorney. The inspector immediately proceeds to the office of the United States attorney where a libel of information against the shipment is being prepared. The libel recites the facts of shipment, the labeling of the product, and the violation charged against it. The inspector should have with him his own records of the case, and should carefully verify the information that has been forwarded by wire to make sure that the United States attorney is in possession of correct information.

The inspector should request the preparation of an extra carbon copy of the libel, in order that the Bureau and the Solicitor may be acquainted with the exact nature of the charge. After the libel has been prepared, it is filed with the clerk of the court. Thereupon the court issues a warrant of seizure directing the United States marshal to seize the goods.

150. Identifying goods to be seized.—The inspector accompanies the marshal or his deputy, and identifies the product to be seized. Care must be used in such identification to include only the goods in the shipments previously reported for seizure. Whenever there is any material variation in the number of packages seized from the number previously reported available for seizure, there must be an explanation by the inspector showing the reason for such variation. Inspectors are not required to superintend the storage or disposition of seized products, but, if requested, should advise the marshal of a proper method for storage of the product, especially if it is of a perishable nature.

151. Inspector's report of goods seized.—Upon completing the seizure the inspector should make a report to his station, which will forward it at once to district headquarters, which in turn sends it on to the Bureau. This report includes the date of seizure, the amount seized, where seized, and where stored after seizure. It should be accompanied by a copy of the libel. If the amount seized varies materially from the amount recommended for seizure, the inspector should explain such variation in his report.

152. Court's permission necessary to sample seized goods.—Products once seized are in the possession of the court, and no further samples may be taken without first obtaining the court's permission. Occasionally a claimant requests such permission. Usually the United States attorney also requests permission to sample, and asks that the sampling by the claimant be done in the presence of a Bureau representative. A written agreement by the claimant that the samples thus taken are to be considered as representative of the product under seizure is advisable. The Bureau is advised by the Solicitor when court order providing for sampling has been obtained.

153. Sampling goods after seizure.—Upon receiving instructions to take samples from shipments under seizure, whether or not coincident with sam-

pling by the claimants, stations should first secure a copy of the court order permitting such sampling, and be governed by its stipulations in regard to the quantity of the product to be taken. Arrangements should then be made with the United States marshal for access to the goods. Such samples should be given official numbers, and reported as samples taken from stock under seizure, designating the seizure number, as well as any previous preseizure or post-seizure sample numbers. Whenever the claimant collects samples the station receiving notice should collect samples also, even in the absence of specific instructions. The collection report should include a copy of the court order under which the samples were drawn, and the records of interstate shipment and sale, if not already collected with preseizure sample. If samples were also drawn by the claimant, such fact should be reported fully, with a description of the samples and method of taking them.

154. Disposition of goods released under bond.—After judgment by the court has been rendered, if release of the product under bond is permitted, as provided for in section 10 of the Act, stations should make further appropriate investigation to determine whether the conditions of the bond are being complied with. When it is evident that such is not the case, further samples from stock positively identified as part of the original shipment seized should be drawn to show the failure to fulfill the requirements of the bond. These facts are to be brought immediately to the attention of the district headquarters, which in turn should transmit them at once to the Chief of the Bureau, so that suit for forfeiture of the bond may be instituted. Special attention is directed to that part of section 10 of the Act which requires as a condition of release under bond that the product shall not be sold or disposed of contrary to the laws of any State. It is believed that this affords an excellent opportunity for close cooperation between stations and State officials to prevent the distribution of seized products in violation of the terms of the bond under which their release may have been effected.

155. District attorneys report termination of seizure actions.—The terminations of seizure actions are reported by the United States attorney to the Solicitor, and by him to the Bureau. Upon receipt of such report the information is transmitted promptly to the district, after which action upon the samples under section 2 of the Act may be considered. This does not relieve the stations from reporting to the Bureau the termination of seizure actions of which they may have knowledge gained by attendance at a term of court during which food and drug cases were adjudicated, or from the occasional and necessary communications with the district attorney's office. It should, however, be made clear to the United States attorney that any report by the station to the Bureau is entirely informal, intended solely to keep the Bureau informed of the progress of the food and drug cases, and does not take the place of the formal report by his office to the Solicitor's Office.

156. Citation on samples from consignments under seizure.—Ordinarily, citation under section 2 of the Act should not issue on samples from consignments under seizure until the seizure action has been terminated. Occasion may arise, however, when the application of this principle is inadvisable, e. g., particularly flagrant violations, or if a claimant unduly delays termination by having the trial postponed from time to time. In those cases where the chief of district believes citation should issue without waiting for the adjudication of the seizures, he should bring them to the attention of the Chief of the Bureau. The Chief of the Bureau will decide the course to pursue, and instruct accordingly.

157. Court records.—In cases brought under section 10 of the Food and Drugs Act (seizure actions) a copy of the libel should be secured and transmitted to the Chief of the Bureau through the district office. Records of court action in prosecutions under section 2 are furnished the Chief of the Bureau by the Solicitor, who receives them directly from United States attorneys.

158. Notice of judgment.—Section 4 of the Food and Drugs Act provides that, after judgment of the court, notice shall be given by publication. Such notices are published from time to time as notices of judgment, including the name of the product, manufacturer or shipper, the findings of the examiner or analyst, the violation alleged, plea, and decision of the court.

PART V.—PROJECTS.

RESEARCH.

159. Program of work.—The Bureau is requested by the Secretary of Agriculture each year to submit a program of work covering the proposed activities of the Bureau during the ensuing fiscal year, for printing in the Department's Program of Work. This program consists of a concise statement of the plan of work under each project, together with a resumé of the results accomplished. The various organization units of the Bureau are requested annually to furnish to the Chief of the Bureau the information upon which the Bureau's program of work is based. In this program of work the field regulatory work of the Bureau is treated as one project under the enforcement of the Food and Drugs Act. For detailed instructions in regard to the program of work see paragraph 208 of the Administrative Regulations of the United States Department of Agriculture.

160. Research projects.—A complete record should be kept of all research projects by the chemists in charge of such projects. Reports of progress on all research projects should be made to the Chief of the Bureau once each year or oftener. Before undertaking any new research project a full outline in the form indicated in paragraph 209 of the Administrative Regulations of the United States Department of Agriculture should be submitted to the Chief of the Bureau for his consideration.

REGULATORY.

161. Schedule of regulatory work.—In order that there may be a definite program for the work of each district, a schedule of regulatory work has been approved. This schedule provides for seasonal work upon certain products and for all-the-year-around work on other products. A list of the projects scheduled, which is subject to change from year to year, follows:

Beverages.
Cereal products.
Chocolate products.
Coffee and tea.
Cooperative work.
Dairy products.
Drugs:
- Crude.
- Essential oils and balsams.
- Pharmaceuticals.
- Sherley Amendment.
- Synthetic.

Eggs.
Factory inspections.
Fish.
Flavoring extracts.
Fruits and fruit products.
Grains and stock feed.
Insecticides and fungicides.
Legumes.
Meats and meat products.
Miscellaneous.
Nuts.
Oils and fats.
Quantity of contents.
Saccharine products.
Shellfish.
Spices and condiments.
Swells.
Vegetables and vegetable products.
Vinegar.
Water.

162. Monthly summary of regulatory work.—Each month the districts submit a summary of the regulatory work accomplished in accordance with the schedule outlined. At the end of the season for each of the projects which are seasonal, a report is submitted upon the completed work for the entire season. On those projects which are conducted during the entire year, a report is made at the end of the year of the complete year's work. Under the direction of the Chief of the Bureau a summary of the reports as submitted by the districts is prepared by the Office of Cooperation and issued each month in the Monthly Review of the Bureau of Chemistry.

PART VI.—COOPERATION WITH STATE AND CITY FOOD AND DRUG CONTROL OFFICIALS.

COOPERATION.

163. Importance of cooperation.—The Federal Food and Drugs Act supplements State food and drug control laws. Effective control of commerce in foods, feed, and drug products can be obtained only by the cooperative enforcement of both Federal and State laws. It is the duty of all members of the Bureau of Chemistry to cooperate in every way with State and city food and drug officials. In order to promote this cooperation and make it more effective, an Office of Cooperation has been organized in the Bureau of Chemistry. State and city officials should be encouraged to utilize the Federal Food and Drugs Act in correcting those violations which they can not reach under State laws. Any information that can be furnished to State officials which will aid them in the enforcement of State laws should be furnished. For more detailed information in regard to State cooperation see the manual entitled Manual of Procedure For the Guidance of City and State Health, Food and Drug Officials, prepared by the Office of Cooperation. A circular, Directory of Federal and State Dairy, Food, Drug and Feedingstuffs Officials, gives the names and addresses of the principal Federal and State food and drug officials of the United States, and will be of use to both Federal and State officials.

164. Authority for State officials to act.—Section 5 of the Food and Drugs Act of June 30, 1906, provides—

> It shall be the duty of each district attorney to whom the Secretary of Agriculture shall report any violation of this Act, or to whom any health or food or drug officer or agent of any State, Territory, or the District of Columbia shall present satisfactory evidence of any such violation, to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States, without delay, for the enforcement of the penalties as in such case herein provided.

The Secretary of Agriculture issues a commission to each State food and drug commissioner or to the administrative officer of the State who is in charge of the enforcement of the State law relating to food and drugs, authorizing him or his agents to collect samples of foods and drugs coming within the jurisdiction of the Federal Food and Drugs Act. Upon nomination of the administrative officer of the State, State chemists are appointed by the Secretary of Agriculture as collaborating chemists in the Bureau of Chemistry. Collaborating chemists are paid a per diem for the actual time spent in the analysis of samples intended as the basis of action under the Federal Food and Drugs Act.

PROCEDURE FOR STATE OFFICIALS IN DEVELOPING CRIMINAL ACTION UNDER SECTION 2 OF THE FEDERAL FOOD AND DRUGS ACT.

165. State inspectors.—State inspectors in collecting samples on which to base criminal actions under section 2 of the Federal Food and Drugs Act should in general follow the instructions relating to collecting samples and to securing interstate evidence in paragraphs 40 to 93 of this manual. One copy

of the Inspector's Description of Sample slip should be sent to the Bureau of Chemistry, Washington, D. C. A second copy should be sent to the chief of the district, as indicated on the slip. The samples and all other copies of the records, except those kept by the inspector for his own use, should be sent to the State collaborating chemist. State inspectors should always remember that proof of interstate shipment is essential in bringing action under the Federal Food and Drugs Act. The procedure outlined in this manual for securing such evidence should be followed. A modification of this procedure, however, may be made in certain instances, as indicated in paragraph 168.

166. Collaborating chemists.—The procedure in analyzing samples taken under the Federal Food and Drugs Act is outlined in paragraphs 94 to 108 of this manual. If in doubt as to the determinations to make, the composition of unadulterated samples, or the methods of analysis, consult the Bureau of Chemistry. Reports of analysis and recommendation as to the action to be taken, together with inspection records, should be sent to the commissioned State official, instead of to the station or district chief, as indicated in the procedure for Bureau employees.

167. Commissioned officials.—After examining the reports and recommendation submitted by the collaborating chemist, the commissioned State official should make a recommendation of the action he considers advisable, and transmit it, with all the records, to the United States food and drug inspection station having jurisdiction, and also transmit the sample or samples properly sealed which the collaborating chemist has under lock and key. All the reports submitted by the inspector and by the collaborating chemist, with any additional information in possession of the commissioned State official which might have a bearing on the case, should be transmitted to the station.

168. Modified procedure for State officials.—Owing to the difficulty and time required in some instances to secure the records establishing proof of interstate shipment, a modified procedure has been provided in the Manual of Procedure for the Guidance of City and State Health, Food, and Drug Officials. This procedure permits the State inspector to use the State seals and methods of identifying samples, and makes it unnecessary to secure the records of interstate shipment at the time the sample is collected, but provides that these records should be identified at the time the sample is collected, so that they may be secured later if it is decided to develop a case on the sample collected.

The modified procedure as authorized in the Manual of Procedure for the Guidance of City and State Health, Food, and Drug Officials follows:

In the collection of samples of foods, feedingstuffs, and drugs which have been shipped in interstate commerce, a State inspector will take a sufficiently large sample in the case of bulk goods, or a sufficient number of samples in the case of small package goods, so that if analysis by a collaborating chemist of his State shows the products to be adulterated or misbranded there will be enough of the sample left for analysis by the Department of Agriculture. The inspector will use the State blanks, seals, and sample numbers for describing every sample that he collects, and, in addition to this, will write his name, date of collection, and the number assigned to the sample, on the back of the invoice and other records in the possession of the dealer covering the goods which he samples. The dealer or the dealer's agent should write his name on the records also, so that at some future date the invoice and shipping records can be secured and identified in all cases where examination reveals evidence of adulteration or misbranding.

When a sample is analyzed by the State chemist and found to be neither adulterated nor misbranded under the Federal Act, the case may be dropped, and, so far as this Department is concerned, no effort need be made to obtain any records of shipment. It is not necessary to report such cases to this Department. If it appears from the analysis that the goods are either adulterated or misbranded, the inspector should at some early date obtain from the dealer

from whom he purchased the sample the original or a copy of the invoice, shipping memoranda, such as freight bill, waybill, or bill of lading, and a dealer's receipt as described above, which constitute the records of proof of interstate sale and delivery.

With the information which the State has at this state of procedure, the inspector who collected the sample is in a position to prepare a description of it on the Department's forms. The unused samples, or unused part of the sample analyzed by the State chemist, should be sealed by the State inspector with the Bureau of Chemistry paper seals, and identified by him with an I. S. number which corresponds to the I. S. number printed on the Federal Description of Sample slip, used by him in reporting the collection of the sample to this Department. These samples and forms when properly prepared, together with a copy of the State chemist's analysis, should then be sent to the nearest inspection station of the Bureau of Chemistry, which will handle the case thereafter.

SEIZURE ACTION BY STATE AND CITY OFFICIALS.

169. Seizures may be reported by State officials direct to district attorneys.—The Manual of Procedure for State and City Officials provides as follows:

Seizures of adulterated or misbranded goods may be made through the United States district attorneys independently of the Bureau of Chemistry upon the evidence submitted by commissioned State officials or by any other State health, food, or drug official. This course is desirable in the case of decomposed or putrid perishable food products which are likely to be scattered and consumed before a report of the case could take its regular course through the Department of Agriculture and the Department of Justice. A report of such seizures, however, with a copy of the libel, monition, and marshal's return, should be made to the inspection station of the Bureau of Chemistry through which the State cooperates for proper record, and this should be followed in due time by a report of the judgment of the court in the case.

170. Follow Bureau procedure in developing evidence.—The procedure to be followed in developing evidence for seizure is outlined in paragraphs 142 to 157 of this manual. This procedure in so far as it is applicable to the conditions under which State officials operate, should be followed by them. Whenever it is the intention of a State official simply to make a seizure of unlawful goods without following it up with a criminal action, however, the procedure outlined need not be followed precisely. It may not even be necessary to take a sample as in the case of spoiled fish or spoiled meat. In such cases the examination made by an inspector takes the place of a laboratory examination of the sample. Accurate notes of all important points should be taken by the inspector, who should not rely upon his memory for essentials.

PART VII.—IMPORTED FOODS AND DRUGS.

ACTS AND REGULATIONS AFFECTING IMPORTATION OF FOODS AND DRUGS.

INSPECTION BY BUREAU OF CHEMISTRY UNDER THE FOOD AND DRUGS ACT.

171. Authority.—The inspection and examination of shipments of imported foods and drugs to determine whether they should be admitted into the United States is carried on under the authority conferred upon the Secretary of Agriculture by section 11 of the Food and Drugs Act.

Under the authority there conferred upon the Secretary of the Treasury, the collector of customs at the port of entry allows entry or refuses entry to such shipments.

SEC. 11. The Secretary of the Treasury shall deliver to the Secretary of Agriculture, upon his request from time to time, samples of foods and drugs which are being imported into the United States or offered for import, giving notice thereof to the owner or consignee, who may appear before the Secretary of Agriculture, and have the right to introduce testimony, and if it appear from the examination of such samples that any article of food or drug offered to be imported into the United States is adulterated or misbranded within the meaning of this Act, or is otherwise dangerous to the health of the people of the United States, or is of a kind forbidden entry into, or forbidden to be sold or restricted in sale in the country in which it is made or from which it is exported, or is otherwise falsely labeled in any respect, the said article shall be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any goods refused delivery which shall not be exported by the consignee within 3 months from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe: *Provided*, That the Secretary of the Treasury may deliver to the consignee such goods pending examination and decision in the matter on execution of a penal bond for the amount of the full invoice value of such goods, together with the duty thereon, and on refusal to return such goods for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of the bond: *And provided further*, That all charges for storage, cartage, and labor on goods which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

ACTS AND REGULATIONS ADMINISTERED BY TREASURY DEPARTMENT.

172. Samples may show violation of other laws.—Occasionally inspection or analysis of food and drug samples discloses the fact that the product is subject to or in violation of some of the other acts or regulations referred to in this section. If it appears that the fact is disclosed only by the particular examination made and is not entirely obvious and might otherwise escape notice, it should be called to the attention of the proper Treasury official.

DRUGS AND MEDICINE ACT, 1848.

173. Text of Act.—This Act is embodied in the following sections of the Revised Statutes of the United States, 1878:

SEC. 2612. *Instructions to prevent importation of adulterated drugs.*—The Secretary of the Treasury shall give to the collectors of districts for which an examiner of drugs, medicines, and chemicals is not provided by law, such

instructions as he may deem necessary to prevent the importation of adulterated and spurious drugs and medicines.—Act June 26, 1848. (U. S. Compiled Statutes, 1901, vol. 2, p. 1801; or U. S. Compiled Statutes, Compact Edition, § 5356.)

SEC. 2933. *Examination of imported medicinal remedies.*—All drugs, medicines, medicinal preparations, including medicinal essential oils and chemical preparations, used wholly or in part as medicine, imported from abroad, shall, before passing the customhouse, be examined and appraised, as well in reference to their quality, purity, and fitness for medicinal purposes as to their value and identity specified in the invoice.

SEC. 2934. *Name of manufacturer to be affixed to medicines.*—All medicinal preparations, whether chemical or otherwise, usually imported with the name of the manufacturer, shall have the true name of the manufacturer and the place where they are prepared permanently and legibly affixed to each parcel by stamp, label, or otherwise; and all medicinal preparations imported without such names so affixed shall be adjudged to be forfeited.

SEC. 2935. *Return upon examination.*—If, on examination, any drugs, medicines, medicinal preparations, whether chemical or otherwise, including medicinal essential oils, are found, in the opinion of the examiner, to be so far adulterated, or in any manner deteriorated, as to render them inferior in strength and purity to the standard established by the United States, Edinburgh, London, French, and German pharmacopœias and dispensatories, and thereby improper, unsafe, or dangerous to be used for medicinal purposes, a return to that effect shall be made upon the invoice, and the articles so noted shall not pass the customhouse, unless, on a reexamination of a strictly analytical character, called for by the owner or consignee, the return of the examiner shall be found erroneous, and it is declared as the result of such analysis, that the articles may properly, safely, and without danger be used for medicinal purposes.

SEC. 2936. *Appeal from examination.*—The owner or consignee shall at all times, when dissatisfied with the examiner's return, have the privilege of calling, at his own expense, for a reexamination; and the collector, upon receiving a deposit of such sum as he may deem sufficient to defray such expense, shall procure some competent analytical chemist possessing the confidence of the medical profession, as well as of the colleges of medicine and pharmacy, if any such institutions exist, in the State in which the collection district is situated, to make a careful analysis of the articles included in the return, and a report upon the same under oath. In case this report, which shall be final, shall declare the return of the examiner to be erroneous, and the articles to be of the requisite strength and purity, according to the standards referred to in the next preceding section, the entire invoice shall be passed without reservation, on payment of the customary duties.

SEC. 2937. *Exportation of rejected articles.*—If the examiner's return, however, shall be sustained by the analysis and report, the articles shall remain in charge of the collector, and the owner or consignee, on payment of the charges of storage and other expenses necessarily incurred by the United States, and on giving a bond with sureties satisfactory to the collector to land the articles out of the limits of the United States, shall have the privilege of reexporting them at any time within the period of 6 months after the report of the analysis; but if the articles shall not be sent out of the United States within the time specified, the collector, at the expiration of that time, shall cause the same to be destroyed, and hold the owner or consignee responsible to the United States for the payment of all charges, in the same manner as if the articles had been reexported.

SEC. 2938. *Appraiser as special examiner.*—One of the assistant appraisers at the port of New York, to be appointed with special reference to his qualifications for such duties, shall, in addition to the duties that may be required of him by the appraiser, perform the duties of a special examiner of drugs, medicines, chemicals, and so forth.

SEC. 2939. *Appraisement at New York.*—The Collector of the Port of New York shall not, under any circumstances, direct to be sent for examination and appraisement less than 1 package of every invoice, and 1 package at least out of every 10 packages of merchandise, and a greater number should he, or the appraiser, or any assistant appraiser, deem it necessary. When the Secretary of the Treasury, however, from the character and description of the merchandise, may be of the opinion that the examination of a less proportion

of packages will amply protect the revenue, he may, by special regulation, direct a less number of packages to be examined.—Approved, June 26, 1848. (U. S. Statutes at Large, vol. 9, p. 237; U. S. Compiled Statutes, 1901, vol. 2, p. 1936 et seq.; U. S. Compiled Statutes, 1918, Compact Edition, §5622–5628.)

The regulations for the enforcement of this Act will be found in the Customs Regulations of 1908, articles 899 to 914, inclusive.

174. This Act and Food and Drugs Act cumulative.—Under date of July 17, 1907, the Attorney General rendered an opinion to the effect that the Drugs and Medicine Act of 1848 and the Food and Drugs Act are cumulative and should both be given effect (see page 779 of Federal Food and Drugs Act and Decisions, compiled under direction of the Solicitor, U. S. Department of Agriculture).

ACTS AND REGULATIONS GOVERNING THE IMPORTATION OF OPIUM AND COCA LEAVES, THEIR SALTS, DERIVATIVES, OR PREPARATIONS.

175. Opium.—The following acts govern the importation of opium, reference being made to the publications in which the text of the acts and the regulations for their enforcement may be found:

An Act to prevent the importation of opium by Chinese.—Approved Feb. 23, 1887. (Secs. 1 and 2, U. S. Compiled Statutes, 1901, vol. 3, pp. 3198–3199; U. S. Compiled Statutes, 1918, Compact Edition, §8797–8799.)

An Act to prohibit the importation and use of opium for other than medicinal purposes.—Approved Feb. 9, 1909. (Act and regulations given in T. D. 29657, Mar. 27, 1909.)

An Act to amend an Act _____ approved Feb. 9, 1909.—Approved Jan. 17, 1914. (Act and regulations given in T. D. 34221, Mar. 3, 1914.) This Act covers also the exportation of opium or cocaine and of salts, derivatives, or preparations of same (see also C. R. 1915, art. 898).

176. Opium and cocaine.—The Harrison or Narcotic Act, approved Dec. 17, 1914 (Public No. 223, 63d Congress). The following sections of the Act are of special interest:

The Law.

By an Act of Congress approved December 17, 1914, it is provided:

That on and after the first day of March, 1915, every person who produces, imports, manufactures, compounds, deals in, dispenses, sells, distributes, or gives away opium or coca leaves or any compound, manufacture, salt, derivative, or preparation thereof, shall register with the collector of internal revenue of the district his name or style, place of business, and place or places where such business is to be carried on: *Provided*, That the office or if none, then the residence of any person shall be considered for the purpose of this Act to be his place of business. At the time of such registry and on or before the first day of July, annually thereafter, every person who produces, imports, manufactures, compounds, deals in, dispenses, sells, distributes, or gives away any of the aforesaid drugs shall pay to the said collector a special tax at the rate of $1 per annum: *Provided*, That no employee of any person who produces, imports, manufactures, compounds, deals in, dispenses, sells, distributes, or gives away any of the aforesaid drugs, acting within the scope of his employment, shall be required to register or to pay the special tax provided by this section: *Provided further*, That the person who employs him shall have registered and paid the special tax as required by this section: *Provided further*, That officers of the United States Government who are lawfully engaged in making purchases of the above-named drugs for the various departments of the Army and Navy, the Public Health Service, and for Government hospitals and prisons, and officers of any State government, or of any county or municipality therein, who are lawfully engaged in making purchases of the above-named drugs for State, county, or municipal hospitals or prisons, and officials of any Territory or insular possession or the District of Columbia or of the United States who are lawfully engaged in making

purchases of the above-named drugs for hospitals or prisons therein shall not be required to register and pay the special tax as herein required.

It shall be unlawful for any person required to register under the terms of this Act to produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away any of the aforesaid drugs without having registered and paid the special tax provided for in this section.

That the word "person" as used in this Act shall be construed to mean and include a partnership, association, company, or corporation, as well as a natural person; and all provisions of existing law relating to special taxes, so far as applicable, including the provisions of section thirty-two hundred and forty of the Revised Statutes of the United States are hereby extended to the special tax herein imposed.

That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make all needful rules and regulations for carrying the provisions of this Act into effect.

SEC. 6. That the provisions of this Act shall not be construed to apply to the sale, distribution, giving away, dispensing, or possession of preparations and remedies which do not contain more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce, or, if a solid or semisolid preparation, in one avoirdupois ounce; or to liniments, ointments, or other preparations which are prepared for external use only, except liniments, ointments, and other preparations which contain cocaine or any of its salts or alpha or beta eucaine or any of their salts or any synthetic substitute for them: *Provided*, That such remedies and preparations are sold, distributed, given away, dispensed, or possessed as medicines and not for the purpose of evading the intentions and provisions of this Act. The provisions of this Act shall not apply to decocainized coca leaves or preparations made therefrom, or to other preparations of coca leaves which do not contain cocaine.

SEC. 12. That nothing contained in this Act shall be construed to impair, alter, amend, or repeal any of the provisions of the Act of Congress approved June 30, 1906, entitled "An Act for preventing the manufacture, sale, or transportation of adulterated or misbranded, or poisonous, or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," and any amendment thereof, or of the Act approved February 9, 1909, entitled "An Act to prohibit the importation and use of opium for other than medicinal purposes," and any amendment thereof.

177. Reference to Harrison Act.—The complete text of the Act, with regulations, is given in T. D. 2126 (Int. Rev.), January 15, 1915, and also as a separate publication in Treasury Department, Internal Revenue, Internal Revenue Regulations No. 35. T. D. 2172 (Int. Rev.), March 9, 1915, gives a synopsis of rulings.

178. Exemptions under Harrison Act.—An interpretation of section 6 of this Act is given in T. D. 2309 (Int. Rev.), March 11, 1916, as follows:

(T. D. 2309.)

NARCOTIC LAW.

Interpretation of section 6 of the Act of December 17, 1914, supplementary to T. D. 2213 of June 7, 1915.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 11, 1916.

To collectors of internal revenue and others concerned:

Section 6 of the Act of Congress approved December 17, 1914, does not apply to extemporaneous prescriptions unless written for a preparation or remedy as hereinafter defined. The exemptions in that section apply exclusively to ready-made preparations and remedies prepared in accordance with the United States Pharmacopœia, National Formulary, or other recognized or established formula, usually carried in stock by a dealer and sold without a

prescription, provided such preparations and remedies are sold, distributed, given away, dispensed, or possessed strictly in good faith for medicinal purposes only, and not for the purpose of evading the intentions or provisions of the Act. The selling, dispensing, or possession of any such preparation or remedy containing opium, or any alkaloid, salt, or derivative thereof, for the purpose of satisfying or of ministering to a drug habit is not selling or dispensing for medicinal purposes within the intentions of the law.

Preparations and remedies within the intent of section 6 are hereby defined to be ready-made compound mixtures prepared in accordance with a recognized or established formula as indicated above, which contain not more than one of the enumerated drugs in a quantity not greater than that specified, together with other active medicinal drugs in sufficient proportion to confer upon such preparations or remedies valuable medicinal qualities other than possessed by the narcotic drugs if dispensed alone. Simple dilutions of a narcotic drug made by admixture with inert or nearly inert substances, as sugar of milk or simple solutions of narcotic drugs in water, sirup, diluted alcohol, flavoring matter, etc., are not bona fide medicinal preparations within the meaning of the exemption.

The several alkaloids, salts, or derivatives of opium, if aggregated in the same mixture, are not exempt. A preparation which contains the permitted maximum quantity of any one of the alkaloids, salts, or derivatives, if fortified by the addition of any one of the other named alkaloids, or of its salts or derivatives, is not a preparation or remedy of the character contemplated by the exemption of section 6.

Preparations or remedies which come within the exemptions of section 6, as herein defined, may be sold with or without a prescription, which prescription may be refilled if sold wholly in good faith for medicinal purposes only.

The refilling of a narcotic prescription for an exempted preparation or remedy, as herein defined, combined with other nonnarcotic medicinal agents, with a consequent further dilution of the mixture, will be permitted.

W. H. Osborn,
Commissioner of Internal Revenue.

Approved:
Wm. P. Malburn,
Acting Secretary of the Treasury.

179. The special requirements of Harrison Act regarding registration make unnecessary any similar requirement under Food and Drugs Act.—

(T. D. 35080.)

IMPORTATIONS OF COCAINE, COCA, THEIR DERIVATIVES, ETC.—T. D. 33456 CODE REVOKED.

Treasury Department, *January 25, 1915.*

To collectors and other officers of the customs:

Reference is made to the declaration required by T. D. 33456, covering importations of cocaine, etc., arising under the Food and Drugs Act of June 30, 1906.

The Secretary of Agriculture expresses the opinion that the procedure prescribed in T. D. 33456 of May 23, 1913, regarding the importation of cocaine, etc., is unnecessary, in view of the provisions of the Act of Congress approved December 17, 1914 (Public No. 223), entitled "An Act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes." Regulations under this Act have been made by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury (promulgated as Internal Revenue T. D. 2126, Regulations No. 35, dated January 15, 1915).

In accordance with the views expressed by the Secretary of Agriculture, and Internal Revenue T. D. 2126, T. D. 33456 is hereby revoked, to take effect March 1, 1915.

Andrew J. Peters, *Assistant Secretary.*

180. No conflict with Food and Drugs Act.—An opinion has been expressed by the Solicitor's Office that the enforcement of the above-mentioned law will not conflict with the present workings of the Food and Drugs Act, except that the declaration noted in Treasury Decision 33456 will not now be required.

181. Exclusion under Food and Drugs Act may supplement Harrison Act under certain conditions.—Before the passage of the Harrison Act, certain preparations containing narcotics were refused entry, in some instances on the ground that they might be dangerous to health. Since the passage of this Act it seems quite doubtful whether such action should be taken under the Food and Drugs Act, for the Harrison Act was evidently intended chiefly to prevent improper use of opium and coca leaves and of preparations containing opium and cocaine or their derivatives. In some few instances it might develop that registration under the Harrison Act would not be entirely adequate in preventing improper use of certain imported preparations, and that the collector of internal revenue would desire to invoke the provisions of the Food and Drugs Act, which provide for the exclusion from this country of an article of food or drug which is dangerous to the health of the people of the United States. In such cases, with definite information at hand, action under section 11 of the Act should be taken if the collector of internal revenue deems exclusion of particular shipments desirable, and so recommends.

When a shipment appears to be subject to the provisions of the Harrison Act and is obviously not exempted under section 6 of that Act, as interpreted in T. D. 2309, Internal Revenue, complete information regarding the shipment should be given to the local collector of internal revenue as will enable him to secure proper registration if the matter has not come to his attention through other channels.

182. Narcotic preparations should be labeled properly under Food and Drugs Act.—Action under the Food and Drugs Act against importations of this character should in general be confined to requiring a proper labeling of the goods. Exclusion from this country of shipments under section 11 of the Act, as already indicated, should never be recommended by the station, except when the collector of internal revenue makes special request that such action be taken, and gives adequate reason for such request.

183. Cooperation with collector of internal revenue.—Each station should have a general understanding with the local collector of internal revenue regarding its willingness to cooperate with him, and its readiness to furnish him with all the information available in those cases where analysis of samples taken in connection with the enforcement of the Food and Drugs Act discloses the presence of narcotics, the sale of which is regulated by the Harrison Act. Such cooperation, with little inconvenience to the stations, will undoubtedly furnish, in some instances, the collector certain information which otherwise would be much less readily obtained by him.

184. Regulations regarding the importation of opium and cocaine.—C. R. 1918, arts. 545–549 and art. 898, is as follows:

Opium.

ART. 545. *Opium—Preparations—Derivatives—Definitions.*—The importation of opium in any form shipped by or consigned to Chinese subjects is absolutely prohibited. The importation of smoking opium or opium prepared for smoking by any person is also prohibited. The importation of opium in any other form, or of preparations or derivatives thereof, is prohibited except for medicinal purposes. (Act Jan. 17, 1914; T. D. 5191, 18779, 34221, 34598.)

The term "opium" includes all forms of opium known to the trade, such as gum opium, powdered opium, denarcotized opium, granular opium, smoking

opium, cooked opium, etc. The terms "smoking opium" and "opium prepared for smoking" have one and the same meaning.

The term "preparation" means any product, mixture, or compound containing or representing opium.

The term "derivative" includes the following alkaloids, their salts or combinations, obtained either directly or indirectly: Morphine, codeine, dionin, diacetyl morphine, heroin, peronine, their chlorids, sulphates, phosphates, etc., and all mixtures, compounds, or preparations containing any of the foregoing.

The term "for medicinal purposes only" means the use of opium or preparations or derivatives thereof for the treatment, mitigation, or prevention of disease of man or other animal.

ART. 546. *Places of importation—Quantity.*—Opium for medicinal purposes may be entered for warehouse or consumption at the following ports only: Baltimore, Boston, Chicago, Detroit, Honolulu, New Orleans, New York, Philadelphia, San Juan, San Francisco, Seattle, and St. Louis. It may, however, be entered at other ports having the immediate transportation privilege for immediate transportation without appraisement to any of the said ports.

The collector shall not permit delivery of crude or unmanufactured opium in quantities or packages containing less than 100 pounds; nor of morphine or its salts, either singly or assorted, in quantities or packages containing less than 50 ounces; nor of codeine, heroin, dionin, diacetyl morphine, their salts, or any other derivatives of opium or its salts not otherwise provided for, either singly or assorted, in quantities or packages containing less than 25 ounces, and then only upon the report of the appraiser as to their quality, purity, and fitness for medicinal purposes, and upon compliance with the existing laws and regulations governing the importation of drugs and medicines: *Provided, however*, That special preparations, rarely imported and usually imported in very small quantities and not known to be used by drug habitues, like papaverine and thebaine, may be imported in smaller quantities by well-known and reputable firms or institutions upon compliance with these regulations.

All importers of opium or coca leaves, or any compound, manufacture, salt, derivative, or preparation thereof, shall register with the collector of internal revenue of the district in which his business is carried on. (Act Dec. 17, 1914; T. D. 35080.)

Before any importer is permitted to import such articles he must file in the customhouse a certificate of such registration.

ART. 547. *Affidavit on entry.*—There must be filed with the entry of crude or unmanufactured opium, and preparations and derivatives thereof, a declaration of the owner or ultimate consignee in the following form:

"I, ——— ——— (name of representative), of the ——— ——— (name of firm or corporation), manufacturing chemists or dealers in drugs, do solemnly and truly declare that the ——— (number) cases or packages of opium, preparations or derivatives thereof, more particularly described in the invoice and entry herewith submitted and imported at ——— (port), per ——— (steamship), on the —— day of ———, 19—, are expressly imported and are intended in good faith to be used by ——— (name of firm or corporation) in the preparation of medicines or are to be sold by ——— (name of firm or corporation) for medicinal purposes only, and such opium, preparations or derivatives thereof, are not intended to be used for smoking.

"———— ————,
"*Owner or Ultimate Consignee.*

"Subscribed and sworn to before me, ——— ———, this ——— day of ———, 19—.

"———— ————,
"[SEAL.] "*Notary Public.*"

The collector shall order the entire number of packages of opium, or preparations or derivatives thereof, into the appraiser's stores for examination.

ART. 548. *Withdrawal from warehouse—Payment of duty.*—Opium containing less than 9 per cent of morphia, and preparations or derivatives of opium, deposited in bonded warehouses shall not be removed therefrom without payment of duty, and such duties shall not be refunded.

ART. 549. *Record by importers.*—Importers must keep a record of all sales of imported opium, and derivatives or preparations of opium, or of articles manufactured by them therefrom, showing the names of the purchasers, their places of business, the date of sale, and the name and quantity of the article sold, which record shall be open to the inspection of customs officers.

ART. 898. *Opium and cocaine—Forfeiture—Penalties.*—Opium and cocaine, or any preparations or derivatives thereof, found on a vessel arriving at any port of the United States, and not shown on the vessel's manifest, shall be seized and forfeited, and the vessel is liable for the penalty and forfeiture prescribed in section 2809, Revised Statutes. The fine prescribed by said section should be imposed upon the master, and it is not subject to the provisions of section 2810, Revised Statutes. The collector will at once direct an appraisement of such opium to be made as the basis for imposing a penalty against the master. The value of smoking opium for this purpose is its foreign value. (Act Jan. 17, 1914, sec. 8; T. D. 32083, 34221.)

The master should at once be notified of the penalty incurred, and the facts in the case reported to the district attorney before clearance is granted, for the purpose of libeling the vessel, if necessary. The collector may, however, grant a clearance upon a stipulation entered into by the master and agents of the vessel securing the payment of the penalty.

All smoking opium, whether manifested or not, found on a vessel arriving at a port of the United States, or which may have been smuggled into the United States, shall be forthwith seized, and may be destroyed by order of the collector without judicial proceedings. (T. D. 33069, 34221, 34598.)

No such opium shall be admitted into the United States or any Territory under its jurisdiction for transportation to another country, nor shall such opium be transferred or transshipped from one vessel to another within any waters of the United States for immediate exportation, or for any other purpose.

Opium and cocaine, the salts, derivatives, or preparations thereof, except smoking opium, the exportation of which is prohibited, may be exported to countries regulating their entry under such regulations as are prescribed by such country for the importation thereof. Any person who exports any of the aforesaid drugs in violation of the foregoing provisions will be subject to a fine in any sum not exceeding $5,000 nor less than $50, or to imprisonment for any time not exceeding 2 years, or both. (Act Jan. 17, 1914, sec. 6.)

Any person fraudulently or knowingly importing into the United States, or assisting in so doing, any opium, preparation or derivative thereof, contrary to law, or who shall receive, conceal, buy, sell, or facilitate the transportation, concealment, or sale thereof, knowing the same to have been imported contrary to law, is subject to a fine not exceeding $5,000, and not less than $50, and to imprisonment for any time not exceeding 2 years, or both, and such opium, preparation, or derivative, shall be forfeited and destroyed. (Act Jan. 17, 1914, sec. 2; R. S. 3082; T. D. 32397.)

Any person subject to the jurisdiction of the United States who shall receive or have in his possession, or conceal on board of, or transport on any foreign or domestic vessel or railroad car or other vehicle destined to or bound from the United States, or any Territory thereof, any smoking opium, or who, having knowledge of its presence upon any such vessel, car, or vehicle, and shall not report the same to the principal officer thereof, is subject to a fine not exceeding $5,000, nor less than $50, and to imprisonment not exceeding 2 years, or both.

One-half of any fine recovered from any person or persons under any section of the Act of January 17, 1914, may be paid to the person or persons giving information leading to such recovery, and one-half of any bail forfeited and collected in any proceeding under said Act may be paid to the person or persons giving the information which led to such proceedings, if so directed by the court exercising jurisdiction in the case. No payment, however, for giving information shall be made to any officer or employee of the United States.

Collectors will report to the Department and to the district attorney any violations of said Act which shall come to their knowledge.

ACTS CONCERNING INSPECTION OF TEA.

185. An Act to prevent the importation of impure and unwholesome tea, 1897.—That from and after May 1, 1897, it shall be unlawful for any person or persons or corporation to import or bring into the United States any merchandise as tea which is inferior in purity, quality, and fitness for consumption to the standards provided in section 3 of this Act, and the importation of all such merchandise is hereby prohibited. (T. D. 17995, 19022, 19179, 25119.)

SEC. 2. That immediately after the passage of this Act, and on or before February 15 of each year thereafter, the Secretary of the Treasury shall appoint

a board to consist of 7 members, each of whom shall be an expert in teas, and who shall prepare and submit to him standard samples of tea; that the person so appointed shall be at all times subject to removal by the said Secretary, and shall serve for a term of 1 year; that vacancies in the said board occurring by removal, death, resignation, or any other cause shall be forthwith filled by the Secretary of the Treasury by appointment, such appointee to hold for the unexpired term; that said board shall appoint a presiding officer, who shall be the medium of all communications to or from such board; that each member of said board shall receive as compensation the sum of $50 per annum, which, together with all necessary expenses while engaged upon the duty herein provided, shall be paid out of the appropriation for "expenses of collecting the revenue from customs." (T. D. 23509.)

SEC. 3. That the Secretary of the Treasury, upon the recommendation of said board, shall fix and establish uniform standards of purity, quality, and fitness for the consumption of all kinds of teas imported into the United States, and shall procure and deposit in the customhouses of the ports of New York, Chicago, San Francisco, and such other ports as he may determine, duplicate samples of such standards; that said Secretary shall procure a sufficient number of other duplicate samples of such standards to supply the importers and dealers in tea at all ports desiring the same at cost. All teas or merchandise described as tea, of inferior purity, quality, and fitness for consumption to such standards shall be deemed within the prohibition of the first section hereof. (T. D. 17944, 18131, 18960.)

SEC. 4. That on making entry at the customhouse of all teas or merchandise described as tea imported into the United States, the importer or consignee shall give a bond to the collector of the port that such merchandise shall not be removed from the warehouse until released by the collector, after it shall have been duly examined with reference to its purity, quality, and fitness for consumption; that for the purpose of such examination samples of each line in every invoice of tea shall be submitted by the importer or consignee to the examiner, together with the sworn statement of such importer or consignee that such samples represent the true quality of each and every part of the invoice and accord with the specifications therein contained; or, in the discretion of the Secretary of the Treasury, such samples shall be obtained by the examiner and compared by him with the standards established by this Act; and in cases where said tea or merchandise described as tea is entered at ports where there is no qualified examiner as provided in section 7, the consignee or importer shall in the manner aforesaid furnish under oath a sample of each line of tea to the collector or other revenue officer to whom is committed the collection of duties, and said officer shall also draw or cause to be drawn samples of each line in every invoice and shall forward the same to a duly qualified examiner as provided in section 7: *Provided, however*, That the bond above required shall also be conditioned for the payment of all customhouse charges which may attach to such merchandise prior to its being released or destroyed (as the case may be) under the provisions of this Act. (T. D. 18591.)

SEC. 5. That, if after an examination as provided in section 4, the tea is found by the examiner to be equal in purity, quality, and fitness for consumption to the standards hereinbefore provided, and no reexamination shall be demanded by the collector as provided in section 6, a permit shall at once be granted to the importer or consignee declaring the tea free from the control of customs authorities; but if on examination such tea or merchandise described as tea is found, in the opinion of the examiner, to be inferior in purity, quality, and fitness for consumption to the said standards, the importer or consignee shall be immediately notified, and the tea or merchandise described as tea shall not be released by the customhouse unless on a reexamination called for by the importer or consignee the finding of the examiner shall be found to be erroneous: *Provided*, That should a portion of the invoice be passed by the examiner a permit shall be granted for that portion and the remainder held for further examination, as provided in section 6.

SEC. 6. That in case the collector, importer, or consignee shall protest against the finding of the examiner, the matter in dispute shall be referred for decision to a board of three United States general appraisers, to be designated by the Secretary of the Treasury, and if such board shall, after due examination, find the tea in question to be equal in purity, quality, and fitness for consumption to the proper standards, a permit shall be issued by the collector for its release and delivery to the importer; but if upon such final reexamination by such board the tea shall be found to be inferior in purity, quality, and fitness for

consumption to the said standards, the importer or consignee shall give a bond, with security satisfactory to the collector, to export said tea, or merchandise described as tea, out of the limits of the United States within a period of 6 months after such final reexamination; and if the same shall not have been exported within the time specified, the collector, at the expiration of that time, shall cause the same to be destroyed.

SEC. 7. That the examination herein provided for shall be made by a duly qualified examiner at a port where standard samples are established, and where the merchandise is entered at ports where there is no qualified examiner, the examination shall be made at that one of said ports which is nearest the port of entry, and that for this purpose samples of the merchandise, obtained in the manner prescribed by section 4 of this Act, shall be forwarded to the proper port by the collector or chief officer at the port of entry; that in all cases of examination or reexamination of teas, or merchandise described as tea, by examiners or boards of United States general appraisers under the provisions of this Act, the purity, quality, and fitness for consumption of the same shall be tested according to the usages and customs of the tea trade, including the testing of an infusion of the same in boiling water, and, if necessary, chemical analysis.

SEC. 8. That in cases of reexamination of teas, or merchandise described as teas, by a board of United States general appraisers in pursuance of the provisions hereof, samples of the tea, or merchandise described as tea, in dispute, for transmission to such board for its decision, shall be put up and sealed by the examiner in the presence of the importer or consignee if he so desires, and transmitted to such board, together with a copy of the finding of the examiner, setting forth the cause of condemnation and the claim or ground of the protest of the importer relating to the same, such samples and the papers therewith to be distinguished by such mark that the same may be identified; that the decision of such board shall be in writing, signed by them, and transmitted, together with the record and samples, within 3 days after the rendition thereof, to the collector, who shall forthwith furnish the examiner and the importer or consignee with a copy of said decision or finding. The board of United States general appraisers herein provided for shall be authorized to obtain the advice, when necessary, of persons skilled in the examination of teas, who shall each receive for his services in any particular case a compensation not exceeding $5.

SEC. 9. That no imported teas which have been rejected by a customs examiner or by a board of United States general appraisers, and exported under the provisions of this Act shall be reimported into the United States under the penalty of forfeiture for a violation of this prohibition.

SEC. 10. That the Secretary of the Treasury shall have the power to enforce the provisions of this Act by appropriate regulations.

SEC. 11. That teas actually on shipboard for shipment to the United States at the time of the passage of this Act shall not be subject to the prohibition hereof, but the provisions of the Act entitled "An Act to prevent the importation of adulterated and spurious teas," approved March 2, 1883, shall be applicable thereto.

SEC. 12. That the Act entitled "An Act to prevent the importation of adulterated and spurious teas," approved March 2, 1883, is hereby repealed, such repeal to take effect on the date on which this Act goes into effect.

Approved, March 2, 1897.

186. References and regulations regarding tea.—T. D. 37925, Feb. 25, 1919, gives the text of this Act, with revised regulations, effective May 1, 1918.

Regulations 22 and 23 refer to sending samples in certain instances to field stations of the Bureau of Chemistry, as follows:

REG. 22. To examine for impurities the following tests should be used in comparison with the standard, viz:

Read Test, with Additions and Modifications, and the "Cup Test," Double Weight.

Place 2 ounces of tea in a sieve 5 or 6 inches in diameter, having 60 meshes to the inch and provided with a top. Sift a small quantity of the dust onto a semiglazed white paper about 8 by 10 inches. The amount of dust placed on the paper should be approximately 1 grain. To get the requisite amount of

dust it is sometimes necessary to rub the leaf gently against the bottom of the sieve, but this must not be done until the sieve has been well shaken over the test paper. The dust thus collected should be poured from the paper into the scales, and after weighing the amount of 1 grain it is returned to the same paper, and should be well distributed over the surface of the paper. The paper should then be placed on a plain, firm surface, preferably glass or marble, and the dust crushed by pushing over it, with considerable pressure, a flat steel spatula about 5 inches long. This is done repeatedly, the tea dust being ground almost to a powder and the particles of coloring matter, if any, being thus spread or streaked on the paper, so as to become more apparent. The loose dust should then be brushed off and the paper examined by means of a simple lens magnifying 7½ diameters. In distinguishing these particles and streaks bright light is essential.

The crushed leaf in either black or green tea appears in such quantity that there is no chance of mistaking the leaf for artificial coloring or facing material.

This test is performed in comparison with the standard, and if the tea is clearly equal to the standard as regards artificial coloring or facing matter, the operation need not be repeated. If particles of artificial coloring or facing are found in the sample under comparison with the standard, this operation should be repeated a sufficient number of times for the examiner to satisfy himself whether or not the tea contains impurities consisting of artificial coloring or facing matter in excess of the standard. If found to contain artificial coloring or facing matter in excess of the standard, samples should be drawn from packages representing at least 5 per cent of the line in question and subjected to the above test to see if a majority of these samples contain artificial coloring or facing matter in excess of the standard.

The above test may be applied to all varieties of tea.

In the case of Japans and all other green (unfermented) teas, in addition to the above white-paper test, repeat the operation in comparison with the respective standard on semiglazed black paper for facings, and if it is not equal to the standard, additional samples should be drawn and tested as provided above in the test on white paper. This black-paper test detects all facings like talc, gypsum, barium, sulphate, clay, etc.

Should the examination of the sample by the "cup test," double weight, for scum, sediment, etc., or the "Read test," or both, disclose more impurities than the standard, then a pound sample should be sent to the local appraiser's chemist or to the nearest pure-food laboratory of the Department of Agriculture and an analysis made in comparison with the standard to determine whether it contains more impurities than the standard. If the tea in question is found to contain more impurities than the standard, it would properly be rejected as not being equal to the standard in purity.

All extraneous substances are impurities, and the presence of any may be detected in any way found efficient.

Reg. 23. Should a tea prove on examination to be inferior to the standard in any one of the requisites—namely, quality, quality of infused leaf, or purity—it would justly be rejected, notwithstanding that it be superior to the standard in some of the qualifications. No consideration shall be given to the appearance or so-called style of the dry leaf.

Articles 514 and 515, C. R., 1915, also give regulations dealing with the entry and examination of teas.

187. Tea Act approved May 16, 1908 (amendement to Act of 1897).—That section 1 of "An Act to prevent the importation of impure and unwholesome tea," approved March 2, 1897, be amended by adding at the end thereof the following words: "*Provided*, That nothing herein shall affect or prevent the importation into the United States, under such regulations as the Secretary of the Treasury may prescribe, of any merchandise as tea which may be inferior in purity, quality, and fitness for consumption to the standards established by the Secretary of the Treasury, or of any tea waste, tea siftings, or tea sweepings, for the sole purpose of manufacturing theine, caffeine, or other chemical products whereby the identity and character of the original material is entirely destroyed or changed; and that importers and manufacturers who import or bring into the United States such tea, tea waste, tea siftings, or tea sweepings, shall give suitable bond, to be approved as to amount and securities by the Secretary of the Treasury, conditioned that said imported material shall be only used for the purposes herein provided, under such regulations as may be prescribed by the Secretary of the Treasury."

This Act and the regulations thereunder, published in T. D. 29311, Oct. 28, 1908, refer to importations of low grade tea, etc., for manufacturing purposes.

188. Opinion of Attorney General regarding the relation of the Tea Inspection Act and the Food and Drugs Act.—I am of the opinion that there is no such repugnancy between the special Tea Inspection Act of 1897 and the general Food and Drugs Act of 1906 as to prevent them, generally speaking, from standing together; that the provisions of the Tea Inspection Act cover in respect to the importation of tea matters not embraced within the Food and Drugs Act, while the Food and Drugs Act in turn imposes restrictions upon the importation of all food and drugs, including tea, which are not necessarily embraced in the Tea Inspection Act; that the Food and Drugs Act does not plainly appear to have been intended as a substitute for the earlier statute in the matter of the importation of tea; but that, generally speaking, the two statutes are cumulative in so far as the importation of tea is concerned and should both be given effect, and hence, that an importation of tea is now subject to the provisions of both of these acts; that is to say, it must comply with the standards established by the Secretary of the Treasury under the Tea Inspection Act, and must also stand the tests in reference to adulteration and misbranding imposed by the Food and Drugs Act. I am therefore of the opinion, to reply specifically to your question, that imported tea, although meeting the requirements of the Tea Inspection Act of 1897, is still subject to the provisions of the Food and Drugs Act regarding adulteration, labeling, misbranding, and guaranty.

It, of course, follows from what has been said that, if in the administration of these laws there should develop a repugnancy between any specific provisions of the two statutes, to the extent of such repugnancy the provisions of the Food and Drugs Act would prevail, and any conflicting provisions of the Tea Inspection Act would, to such extent, be impliedly repealed.

February 23, 1907.

Under this interpretation it will be seen that tea must comply with the Food and Drugs Act as far as adulteration and misbranding are concerned, while questions of standard and quality will be decided, under the Tea Inspection Act, by the Treasury Department.

189. Examination of and standards for tea.—Qualified examiners to pass upon teas are stationed at the ports of New York, Boston, Chicago, San Francisco, St. Paul, Tacoma, and Honolulu.

The Secretary of the Treasury establishes each year standards based on the recommendation of the board of tea experts, which require entire freedom from artificial coloring or facing matter. The standards selected for the year 1919 are given in T. D. 37925, under Regulation 19. Consular officers have been requested to issue the regular food declarations for teas, giving all the information required.

ACT REGARDING VIRUSES, SERUMS, AND TOXINS FOR THE TREATMENT OF MAN.

190. Treasury decisions regarding viruses for man.—T. D. 29828, June 10, 1909, gives the text and regulations of the Act of Congress approved July 1, 1902, "An Act to regulate the sale of viruses, serums, and analogous products ----------." T. D. 34642, July 15, 1914, and T. D. 36354, April 27, 1916, give lists of licensed manufacturing establishments. T. D. 37277, July 19, 1917, revokes German licenses. The text of the Act and regulations are given in Treasury Department, Public Health Service Miscellaneous Publication 10, approved Feb. 12, 1919. Customs Regulations, 1915, regarding this Act are as follows:

ART. 504. *Licensed establishment.*—Viruses, serums, toxins, and analogous products for the treatment of the diseases of man are prohibited entry unless propagated in an establishment holding an unsuspended and unrevoked license.

A list of the establishments holding licenses, the number of the license, and the names of the several products produced are published periodically in the Treasury Decisions. (Act July 1, 1902; T. D. 29828, 34642.)

ART. 505. *Labels—Samples.*—Each package must be labeled or plainly marked with the name of the article, the name, address, and license number of the manufacturer, and the time beyond which the contents can not be expected to yield their specific results. Samples of the same laboratory number must accompany each importation and such samples will be forwarded by the collectors to the Surgeon General of the Public Health Service at Washington, D. C.

ART. 506. *Detention, examination, disposition.*—Collectors of customs will detain all importations of viruses, serums, toxins, and analogous products for the treatment of the diseases of man pending examination by the Surgeon General of the Public Health Service.

If the shipment is found to be admissible, the collector will release the same upon receipt of a report from the Public Health Service that the article is admissible.

If the articles are found not to conform to the law and the regulations, the collector will refuse delivery and permit the exportation or destruction thereof under customs supervision at the option of the importer.

T. D. 38095, July 29, 1919, refers to denying admission to salvarsan and similar preparations as subject to this Act.

An Act covering viruses, serums, and toxins for treatment of domestic animals is referred to in paragraph 199.

ACTS AND CUSTOMS REGULATIONS REFERRING TO THE MARKING OF ARTICLES AND PACKAGES AND TO PROHIBITED ARTICLES.

191. Country of origin.—ART. 450. *Marking of articles and packages.*—All articles of foreign manufacture or production which are capable of being marked, stamped, branded, or labeled without injury must be marked, stamped, branded, or labeled so as to indicate the country of origin, in legible English words, in a conspicuous place that shall not be covered or obscured by any subsequent attachments or arrangements. Such marking, stamping, branding, or labeling must be as nearly indelible and permanent as the nature of the article will permit. (Act Oct. 3, 1913, sec. IV, par. F, subsec. 1; T. D. 29970, 30029, 30041, 30300, 30668, 32011, 34994.)

If any article is found upon examination not to be marked to indicate the country of origin it shall not be delivered until so marked at the importer's expense. Articles are not required to be marked to indicate the quantity, weight, or measurement thereof, but if so marked the marking must be in accordance with the facts, and articles inaccurately marked to indicate their quantity, weight, or measurement will not be delivered until the marking is changed to conform to the facts.

All packages containing imported articles must be marked to indicate the country of origin, and also to show the quantity of their contents. If any package is not so marked it shall not be delivered until properly marked under customs supervision at the importer's expense.

ART. 451. *Articles not properly marked.*—The appraiser will report all articles and packages found by him not properly marked to the collector, who will notify the importer to redeliver the unexamined packages or to arrange to mark the same and their contents under customs supervision.

The importer may be permitted to mark examination packages and their contents in the appraiser's stores, and if that be impracticable the same may be turned over to the importer for marking under customs supervision.

If the importer fails to mark such merchandise the collector shall require the same to be exported or shall send it to the general order stores and sell the same as abandoned merchandise upon the condition that it be marked by the purchaser under customs supervision.

Merchandise entered for immediate exportation or in transit through the United States to a foreign country is not required to be marked to indicate the country of origin. (T. D. 20178, 22496, 26017, 29970, 33315.)

192. Oleomargarine.—Articles 445, 446, and 447 refer to marking of oleomargarine.

193. Trade-marks and trade names.—ART. 452 (C. R., 1915). *Prohibition of entry.*—Entry is prohibited of imported merchandise which shall copy or simulate the name of any domestic manufacture or manufacturer or trader, or of any manufacturer or trader located in any foreign country which, by

treaty, convention, or law, affords similar privileges to citizens of the United States, or which shall copy or simulate a trade-mark registered in accordance with the provisions of the acts approved February 20, 1905, and May 4, 1906, or shall bear a name or mark calculated to induce the public to believe that the article is manufactured in the United States or that it is manufactured in any foreign country or locality other than the country or locality in which it is in fact manufactured (Act Feb. 20, 1905, sec. 27; Act May 4, 1906, sec. 3; T. D. 26198, 27416, 29975).

194. Misleading statements regarding country of manufacture.—ART. 456 (C. R., 1915). *Name or mark inducing belief of American manufacture.*—Especial attention is invited to the prohibition against entry of articles which "shall bear a name or mark calculated to induce the public to believe that the article is manufactured in the United States, or that it is manufactured in any foreign country or locality other than the country or locality in which it is in fact manufactured," and collectors and other officers of the customs are instructed to use diligence to prevent violations of this provision (T. D. 26198).

195. Drugs and medicines for immoral purposes.—ART. 550. *Obscene and immoral articles (seizure).*—Obscene books, pictures, figures, and all other articles of an obscene or immoral nature, drugs or medicines and articles for the prevention of conception or causing abortion, lottery tickets, and advertisements of any lottery are prohibited importation. This does not apply to drugs imported in bulk and not put up for the purposes specified. (Act Oct. 3, 1913, sec 4, par. G, subsec. 1; Acts July 12, 1876, Sept. 26, 1888, Feb. 8, 1897, Feb. 8, 1905; T. D. 18500, 18567, 18845, 20572, 20771, 21966, 24311, 26058, 31411; Fed. Penal Code, sec. 237, Act Mar. 4 1909.)

Any articles which the collector shall deem to be prohibited shall not be admitted to entry, but shall be seized, forfeited, and destroyed, unless the importer shall file a written consent to their destruction without forfeiture proceedings.

The entire package containing such articles shall be seized and forfeited, unless it shall appear that the prohibited articles were inclosed therein without the knowledge or consent of the importer, owner, or consignee, in which case the prohibited articles only will be seized and will be eliminated in the liquidation of the entry, and the estimated duties paid thereon refunded. (T. D. 24254.)

ART. 551. *Penalty.*—Any officer, agent, or employee of the Government of the United States who knowingly aids or abets any person engaged in any violation of any of the provisions of law prohibiting importing, advertising, dealing in, exhibiting, or sending or receiving by mail obscene or indecent publications or representations, or means for preventing conception or procuring abortion, or other articles of indecent or immoral use or tendency, is guilty of a misdemeanor, and for every offense is punishable by a fine of not more than $5,000, or imprisonment at hard labor for not more than 10 years, or both. (Act Oct. 3, 1913, sec. IV, par. G, subsec. 2; Fed. Penal Code, sec. 102, Act Mar. 4, 1909.)

Any person who causes to be brought into the United States or any place subject to the jurisdiction thereof such prohibited articles is subject to a like fine or imprisonment for not more than 5 years, or both. (Act Mar. 4, 1909; Fed. Penal Code, sec. 245.)

195a. Prohibition Act.—T. D. 2940, Int. Rev., October 29, 1919, gives regulations under the National Prohibition Act, approved October 28, 1919, and related acts. It refers to medicinal preparations and flavoring extracts, giving definitions and standards.

ACTS ADMINISTERED CHIEFLY BY THE U. S. DEPARTMENT OF AGRICULTURE.

THE IMPORTED MEAT ACT.

196. Bureau of Animal Industry order regarding imported meats.—The text of this Act, approved October 3, 1913, and of the Meat Inspection Act, which is included in the acts making appropriation for the Department of Agriculture, approved June 30, 1906, and March 4, 1907, are contained in B. A. I. Order 211, which also gives the regulations under these acts governing the inspection of meat by the Bureau of Animal Industry.

A copy of B. A. I. Order 211, with amendments, should be available for reference at all stations. To date, 6 amendments have issued.

B. A. I, Order 211, Regulation 26, refers to the Food and Drugs Act, as follows:

SEC. 1. Inspected and passed meat and products, like uninspected meat and products, shall comply with the provisions of the Food and Drugs Act in every respect. Failure to comply renders all such articles sold or offered for sale in the District of Columbia or any Territory or other place under the jurisdiction of the United States, or shipped or delivered for shipment from one State or Territory or the District of Columbia to another State or Territory or the District of Columbia, or to any foreign country, liable to seizure for condemnation, and renders manufacturers, vendors, and shippers in appropriate cases amenable to prosecution under the Food and Drugs Act.

B. A. I. Order 211, Regulation 27, deals with imported meat and products.

197. Summary of Imported Meat Act and regulations (horse meat).—The purpose of inspection under the Imported Meat Act is to prevent importation of meat and meat food products which are unsound, unhealthful, unwholesome, or otherwise unfit for human food.

The Act and Regulation 27 apply only to meat and products derived from cattle, sheep, swine, and goats.

An amendment to the regulations covering meat inspection by the Department of Agriculture was passed by Congress, July 24, 1919, which authorizes the inspection of establishments in which horses are slaughtered for the preparation of food products. Such products must be labeled or branded "horse meat" or "horse-meat product."

The use of dyes, chemicals, preservatives, and added ingredients are regulated (see text of Meat Inspection Act and Regulations 18 and 27, section 3, paragraph 2).

Official meat inspection certificates, signed by authorized foreign officials, are required with all but small private shipments (Regulation 27, sections 5 and 11).

Inedible grease, inedible tallow, or other inedible rendered fat must be marked on container with the word "inedible," in letters not less than 2 inches high (Regulation 27, section 3, paragraph 5).

Grease, tallow, and other rendered fat which is capable of being used for food by man is dealt with as edible unless it is accompanied by a declaration stating that it is offered for importation for industrial purposes (Regulation 27, section 3, paragraph 6).

Action under the Food and Drugs Act is referred to in B. A. I. Regulation 27, section 3, paragraph 3, which reads as follows:

Paragraph 3. No meat or product which bears, or the container of which bears, any statement, design, or device prohibited by sections 7 to 11, inclusive, of Regulation 17, or which is in any respect misbranded or adulterated within the meaning of the Food and Drugs Act, as amended, shall be admitted into the United States.

198. Customs regulations relating to imported meats.—Articles 478 to 483, Customs Regulations, 1915, referring to the provisions of the Meat Importation Act and to the procedure to be followed by customs officials regarding importations of meat and meat products, are as follows:

ART. 478. *Meat food products defined.*—The term meat and meat food products for the purpose of these regulations shall include all imported meat and meat food products of or derived from any portion of the carcass of any cattle, sheep, swine, or goat, which are capable of being used as food by man, except such articles as organic therapeutic substances, meat juice, meat extracts, and the like, which are used only for medical purposes and are advertised only to the medical profession.

All meat and meat food products must be inspected and passed by inspectors of the Bureau of Animal Industry, Department of Agriculture, before release

from customs custody for final delivery to the consignee. (Act Oct. 3, 1913, par. 545; B. A. I. Order 211; T. D. 33952, 34848.)

ART. 479. *Inedible grease, tallow, and fat.*—No inedible grease, tallow, or other rendered fat derived from any portion of the carcass of any cattle, sheep, swine, or goat shall be admitted into the United States unless both ends of each container, such as barrels, tierces, or tank cars, are painted white and the name of the product and the word "inedible" are conspicuously stenciled or burned thereon in letters not less than 2 inches high, or, in the case of tank cars, not less than 4 inches high.

Grease, tallow, and other rendered fat, which is capable of being used as food by man, imported for industrial purposes, will be subject to inspection, unless such intended use is stated in the invoice or in the declaration accompanying the shipment.

ART. 480. *Foreign certificates of inspection.*—Meat and meat food products imported into the United States must be accompanied by certificates of foreign official inspection, which must be delivered by the consignee or agent to the inspector of the Bureau of Animal Industry.

ART. 481. *Inspection.*—Inspection of shipments arriving by water will be made at the port of first arrival, when an inspector of the Bureau of Animal Industry is stationed at such port. When there is no such inspector at the port of first arrival, or the shipment arrives otherwise than by water, the inspection will be made at destination, if an inspector be there stationed; otherwise, the inspection will be made at such place as the Chief of the Bureau of Animal Industry, upon application of the consignee or agent or upon request of the collector of customs, shall direct.

When inspection is not to be made at the port of first arrival, or when no inspector of the Bureau of Animal Industry is stationed at such port, the collector will, upon receipt of the shipment, telegraph the inspector of the Bureau of Animal Industry at destination, stating the kind of product, seal numbers, car initials and numbers, place of origin, names of consignor and consignee, and, if in transit for inspection, its destination and probable date of arrival.

If no inspector of the Bureau of Animal Industry is stationed at the place of destination, the collector will telegraph the information above specified to the Bureau of Animal Industry, Washington, D. C.

Inspection will be made while the merchandise is in actual customs custody, unless upon application of the consignee or agent authority is given by the inspector of the Bureau of Animal Industry for inspection at the importer's premises or other place not under customs supervision. In such cases a bond shall be given by the consignee or agent for the redelivery of the merchandise if demanded by the collector, on Customs Form 3385, and the cars, wagons, vehicles, or packages shall be sealed or corded and sealed by a customs officer or an inspector of the Bureau of Animal Industry with foreign meat seals furnished by the Department of Agriculture, unless bearing customs or consular seals. When cording is necessary for proper sealing, the cords shall be furnished and affixed by the importer or his agent. Foreign meat seals or cords and seals may be broken only by a customs officer or an inspector of the Bureau of Animal Industry.

ART. 482. *Release.*—Meat and meat food products will not be released for final delivery to the consignee until the collector of customs is advised by the Department of Agriculture, or its representative, that the same is admissible.

ART. 483. *Rejection—Disposition.*—Meat or meat food products refused admission by the Department of Agriculture must either be destroyed for food purposes under the supervision of its representative or exported under customs supervision within 30 days after notice of rejection.

ACTS GOVERNING VIRUSES, SERUMS, AND TOXINS FOR TREATMENT OF DOMESTIC ANIMALS.

199. Customs regulations relating to Act.—T. D. 33575, June 23, 1913, quotes that portion of the Agricultural Appropriation Act approved March 4, 1913 (37 Stat., 832), which relates to the importation of viruses, serums, etc., for the treatment of domestic animals, and gives regulations thereunder effective July 1, 1913.

The Bureau of Animal Industry is concerned with its enforcement.

Customs Regulations, 1915, regarding this Act are as follows:

Viruses, serums, and toxins for treatment of domestic animals.

ART. 501. *Importation prohibited.*—The importation of viruses, serums, and toxins for the treatment of domestic animals is prohibited unless the importer holds a permit from the Department of Agriculture covering the specific product. The collector of customs will notify the Bureau of Animal Industry, Department of Agriculture, Washington, D. C., of the arrival of all such products, and refuse delivery thereof until he shall receive notice from the Department that a permit to import the shipment has been issued. (Act Mar. 4, 1913; T. D. 33575.)

ART. 502. *Detention—Samples.*—The collector of customs will detain all shipments of such products for which no permit to import has been issued pending instructions from the Department of Agriculture.

Samples will be furnished to the Department of Agriculture upon its request, and the collector will immediately notify the consignee thereof.

ART. 503. *Disposition.*—Viruses, serums, or toxins rejected by the Department of Agriculture will be delivered by the collector to that department for destruction, or delivered to the importer for exportation, if so requested by the Department of Agriculture.

THE SEED IMPORTATION ACT.

200. References to Seed Importation Act and regulations.—The Act "to regulate foreign commerce by prohibiting the admission into the United States of certain adulterated grain and seeds unfit for seeding purposes" (37 Stat., 506), approved August 24, 1912, as amended by a portion of the Agricultural Appropriation Act (Public No. 190, 64th Congress), approved August 11, 1916, is commonly referred to as the Seed Importation Act.

The amendment extends the application of the Act to additional seeds, and prohibits the entry of seeds containing less than specified percentages of pure, live seed.

The text of the Act and amendment with regulations is given in T. D. 36746, October 24, 1916, and in Service and Regulatory Announcements, B. P. I. 3. A copy of the announcement should be kept available for reference.

The Bureau of Plant Industry is concerned with the enforcement of this Act.

201. Customs regulations regarding imported seed.—Articles 491 to 500, Customs Regulations, 1915, quoted below, give rather fully the procedure followed, and also indicate the location of seed laboratories.

Seeds Adulterated or Unfit for Seeding Purposes.

ART. 491. *Prohibited importation.*—The importation of seeds of alfalfa, barley, Canadian blue grass, Kentucky blue grass, awnless brome grass, buckwheat, clover, field corn, Kafir corn, meadow fescue, flax, millet, oats, orchard grass, rape, redtop, rye, sorghum, timothy, and wheat, or mixtures of seeds containing any of such seeds as one of the principal component parts, which are adulterated or unfit for seeding purposes, is prohibited. This prohibition does not apply to barley, buckwheat, field corn, Kafir corn, sorghum, flax, oats, rye, or wheat, not intended for seeding purposes or when imported for the purpose of manufacture. (Act Aug. 24, 1912; T. D. 33175, 33294, 34393, 35024.)

ART. 492. *Sampling.*—The collector of customs shall draw and forward for examination, without specific request from the Secretary of Agriculture, samples of all seeds of alfalfa, Canadian blue grass, Kentucky blue grass, millet, orchard grass, rape, redtop, timothy, clover, meadow fescue, and awnless brome grass, when entered for consumption, whether or not a consular invoice is presented on the entry thereof.

Samples of shipments of the other seeds enumerated in the preceding article shall be drawn and forwarded only when the Secretary of Agriculture shall make specific request for such samples.

When a shipment is made up of several lots differing in quality or price, a sample of each lot shall be submitted as though each lot were a separate shipment. The sample of each lot or shipment submitted to the seed laboratories shall be drawn as follows: When a lot consists of 5 sacks or less, each sack shall be sampled, and when consisting of more than 5 sacks, every fifth sack, but not less than 5 sacks, shall be sampled.

ART. 493. *Samples—Where sent.*—All such samples shall be forwarded to the respective seed laboratories under which the ports are grouped in the following list of seed-laboratory districts, unless otherwise specifically requested by the Secretary of Agriculture or his representative:

Seed Laboratory, United States Department of Agriculture, Washington, D. C.: All ports in the States of Maine, Vermont, Rhode Island, New York, New Jersey, New Hampshire, Massachusetts, Connecticut, Pennsylvania, Maryland, Delaware, Virginia, Ohio, West Virginia, North Carolina, South Carolina, and Georgia, and Port Huron and Detroit, Mich.

Seed laboratory, Purdue University, La Fayette, Ind.: All ports in the States of Indiana, Illinois, Kentucky, Tennessee, Wisconsin, and Minnesota, and all ports in Michigan except Port Huron and Detroit.

Seed laboratory, Agricultural Experiment Station, Columbia, Mo.: All ports in the States of Missouri, Iowa, Arkansas, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Colorado.

Seed laboratory, Agricultural Experiment Station, Baton Rouge, La.: All ports in the States of Alabama, Mississippi, Florida, Louisiana, Texas, and New Mexico.

Seed laboratory, Agricultural College, Corvallis, Oreg.: All ports in the States of Montana, Wyoming, Idaho, Oregon, and Washington.

Seed laboratory, Agricultural Experiment Station, Berkeley, Calif.: All ports in the States of California, Nevada, Arizona, and Utah.

ART. 494. *Notice to consignee.*—The collector of customs shall immediately notify the consignee that samples have been drawn and that the remainder of the shipment must be held intact, pending a decision of the Secretary of Agriculture in the matter.

ART. 495. *Examination of seeds—Delivery in bond.*—Seeds offered for importation into the United States from any foreign country, after samples of each lot have been taken for examination, shall be admitted only after the samples have been examined and pronounced by the Department of Agriculture to be neither adulterated nor unfit for seeding purposes: *Provided, however,* That collectors of customs may deliver to consignees shipments which have been sampled, on the execution of a bond in a sum equal to the invoice value of the seeds, together with the duty thereon, if any, conditioned upon the redelivery of the shipments, or any part thereof, to the collector when demanded by him for any reason.

ART. 496. *Release—Recleaning.*—If the Secretary of Agriculture shall inform the collector that the seeds are not in violation of the Seed Act, the collector shall no longer detain the shipment; but if the seeds are found to be in violation of the Act, the collector shall permit the seeds to be recleaned, under bond, at the expense of the importer.

The collector of customs shall draw and forward to the Secretary of Agriculture, or his representative, a sample of the recleaned seeds, together with a sample of the screenings or other refuse removed from the seeds in the course of cleaning, accompanied by a statement of the amount of both the recleaned seeds and the screenings, and shall detain the recleaned seeds and screenings pending the decision of the Secretary of Agriculture.

ART. 497. *Disposition of refuse.*—If the Secretary of Agriculture shall inform the collector that any seeds which have been recleaned are not adulterated and are fit for seeding purposes, such seeds may be released to the owner or consignee upon condition that (1) the screenings or other refuse removed in the course of recleaning shall have been ground or otherwise treated under customs supervision so as to render any seeds contained therein incapable of germination, or (2) such screenings or other refuse shall have been exported under customs supervision, or (3) such screenings or other refuse shall have been sacked, sealed, and tagged to the satisfaction of the collector, and are retained subject to the conditions of the bond given to secure delivery of the shipment. Screenings and other refuse in accordance with this regulation may be recleaned at any time within 12 months from the date of the entry of the shipment. Unless recleaned within said period of 12 months, or ground or other-

wise treated under customs supervision so as to render any seeds contained therein incapable of germination, such screenings or other refuse shall be exported under customs supervision.

ART. 498. *Additional samples.*—In addition to the samples hereinbefore required, collectors of customs will forward to the Seed Laboratory, United States Department of Agriculture, Washington, D. C., a 2-ounce sample of each lot of all grass, clover, and other forage plant seeds. (T. D. 34646.)

ART. 499. *Reports of collectors.*—Collectors of customs will report to the Secretary of Agriculture the disposition made of seeds rejected under these regulations. Should the importer fail to export within 3 months from the date of rejection of any seeds, the collector shall report such fact to the Secretary of the Treasury and the United States attorney. The collector will also report to the Secretary of the Treasury and the United States attorney any willful violation of the Seed Importation Act which shall come to his knowledge.

ART. 500. *Appeals.*—Applications or appeals for relief from decisions as to the quality of seeds arising under these regulations should be addressed to the Secretary of Agriculture.

202. Shipments which may be either food or seed.—Occasionally it happens that seed examined by the Seed Laboratory of the Bureau of Plant Industry is found to be of low germinating quality and the product refused entry for use as seed. Under such circumstances the importer may request that shipments of grains, rape, or millet be released for feed purposes, thus bringing the importation under the jurisdiction of the Food and Drugs Act. The Seed Laboratory of the Bureau of Plant Industry has accordingly made arrangements whereby it will at once communicate with this Bureau concerning any shipments of this nature. The Chief of the Bureau will then take up the matter with the station concerned.

In turn, the Bureau of Chemistry should notify the Bureau of Plant Industry when information develops that a shipment offered for entry as food is intended to be used as seed for planting. In such cases it is requested that the station concerned communicate by wire with the Chief of the Bureau who in turn will take up the matter with the proper officials connected with seed testing.

THE PLANT QUARANTINE ACT.

203. References to Act.—The text of this Act, approved August 20, 1912, as amended March 4, 1913, and March 4, 1917, is given in a separate folder issued by the Department.

The full title of the Act, which outlines rather fully its scope and purpose, is "An Act to regulate the importation of nursery stock and other plants and plant products; to enable the Secretary of Agriculture to establish and maintain quarantine districts for plant diseases and insect pests; to permit and regulate the movement of fruits, plants, and vegetables therefrom, and for other purposes."

Section 7 of this Act, referring to the exclusion of certain shipments, reads in part as follows:

SEC. 7. Whenever, in order to prevent the introduction into the United States of any tree, plant or fruit disease or of any injurious insect, new to or not theretofore widely prevalent or distributed within and throughout the United States, the Secretary of Agriculture shall determine that it is necessary to forbid the importation into the United States of any class of nursery stock or of any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products from a country or locality where such disease or insect infestation exists, he shall promulgate such determination, specifying the country and locality and the class of nursery stock or other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products which, in his opinion, should be excluded.

204. Customs regulations regarding plant quarantine.—Instructions to collectors of customs regarding this Act and the procedure to be followed are given in Articles 484 to 490, Customs Regulations, 1915, and are as follows:

Plants and Nursery Stock.

ART. 484. *Permits—Marking.*—The entry of nursery stock is prohibited unless and until a permit for the importation thereof has been issued by the Secretary of Agriculture, and unless the cases or other packages are plainly marked to indicate the nature and quantity of the contents, the district or locality and country where grown, and the name and address of the importer and consignee.

Permits for shipments entered for immediate transportation to an interior port are required only at the port of destination.

Permits are not required for nursery stock entered for transportation in bond to a foreign country. (Act Aug. 20, 1912; Act Mar. 4, 1913; T. D. 34625, 35407.)

ART. 485 *Definitions.*—The term "nursery stock" includes all field-grown florists' stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits, and other seeds of fruit and ornamental trees or shrubs, and other plants and plant products for propagation, except field, vegetable, and flower seeds, bedding plants, and other herbaceous plants, bulbs, and roots.

All woody plants and parts thereof for propagation or planting are included within the term "nursery stock." (Act Aug. 20, 1912, sec. 6; T. D. 34625.)

ART. 486. *Documents required on entry.*—The following described papers are required to be filed with the entry of nursery stock:

(*a*) The importer's permit to import.

(*b*) The report of the importer to the Secretary of Agriculture which will also become the collector's notification to the Secretary of Agriculture of the arrival and disposition of the articles. The collector will compare this report with the invoice, certify to its agreement therewith, noting any discrepancies, and transmit it to the Secretary of Agriculture.

(*c*) The original foreign certificate of inspection.

Blank forms will be furnished by the Department of Agriculture. (T. D. 33697, 33730, 34625, 35407.)

ART. 487. *Release under bond.*—If the permit to import is not at hand at the time of arrival of a commercial shipment accompanied by a certificate of official inspection abroad, it may be delivered to the consignee under a bond in double the invoiced value conditioned upon the redelivery thereof to the collector within 20 days after the arrival and that the goods shall not be removed from the port of entry until the presentation of a permit from the Department of Agriculture. (T. D. 34625.)

Nursery stock arriving from countries without inspection service should not be delivered under bond pending the production of a permit to import.

ART. 488. *Unclaimed shipments.*—If nursery stock is unclaimed, the collector will notify the representative of the Department of Agriculture and have an inspection made. If the Department of Agriculture certifies that such unclaimed nursery stock was imported in compliance with the Plant Quarantine Act and the regulations thereunder, it may be sold in the same manner as other unclaimed merchandise. If found to be imported in violation of the law and regulations, it should be destroyed under customs supervision. (T. D. 34151.)

ART. 489. *Detention.*—Collectors of customs will refuse delivery of all plants, vegetables, or nursery stock, notice of the prohibition of which has been promulgated by the Secretary of Agriculture. Upon the presentation of the entry the collector will notify the importer that the shipment is a prohibited importation, and if the importer shall refuse to immediately export the same the collector will report the facts to the Secretary of Agriculture and to the United States attorney and withhold the issuance of a permit of delivery until the right to entry has been determined. (Act Aug. 20, 1912; T. D. 32863, 32935, 33099, 33110, 33247, 33314, 33356, 33469, 33495, 33574, 33733, 33908, 34022, 34051, 34110, 34213, 34242, 34261, 34418, 34566, 34567, 34625, 34993, 35286, 35287.)

In case of doubt as to whether any plants, vegetables, or nursery stock belong to a prohibited variety, the collector will withhold the same from delivery pending advice from the Department of Agriculture.

The importation of nursery stock through the mails is prohibited. Collectors will turn over to the post office of receipt any parcel of nursery stock received through the mails for return to the country of origin. (T. D. 33933, 34262.)

ART. 490. *Disposition—Refund of duty.*—Plants or nursery stock which have been found in violation of the Act may be exported or destroyed under customs supervision and the estimated duties refunded as an excess of deposits. (T. D. 33205.)

205. Prohibitions under Plant Quarantine Act.—Lists of prohibited articles are issued from time to time, the principal ones being referred to under Article 489, "Detention." These lists are subject to change from time to time because of varying conditions in the countries of origin.

The following are examples of some of the restrictions in effect January 1, 1919:

Fruits infested with the Mediterranean fruit fly, potatoes from various parts of Europe and Canada, infected by certain diseases, and various fruits from tropical countries have been prohibited entry. Among later decisions, T. D. 37060 and 37169 (1917) restrict the importation of corn from Eastern Asia, Japan, Oceania, the Malaysian Archipelago, etc., and T. D. 37304 the importation of citrus fruits from the same regions. T. D. 37244, June, 1917, prohibits the entry of potatoes from Newfoundland because of the prevalence of the potato-wart disease. Notice of Quarantine 37, with regulations (effective June 1, 1919), and S. R. A., Fed. Hort. Bd. 62, issued June 18, 1919, give regulations and a full list of domestic and foreign quarantines. They show recent important modifications. Notice of Quarantine No. 39, with regulations, effective on an after August 15, 1919, refers to quarantine on account of flag smut and take-all diseases. The regulations refer to entry of wheat, oats, barley, and rye. Permits for entry are required.

206. Federal Horticultural Board.—The Federal Horticultural Board assists in the enforcement of this Act. This board consists of 5 members appointed by the Secretary of Agriculture from existing bureaus and offices in the Department, including the Bureau of Entomology, the Bureau of Plant Industry, and the Forest Service.

207. Insect-infested foods.—Whenever samples of foods are found to be insect infested, a portion of the sample should be forwarded to the Chief of the Bureau for transmission to the Bureau of Entomology. It should be accompanied by a letter in duplicate, giving country of origin and any information believed to be of interest, together with a Label for Samples slip. The Bureau of Entomology has requested such cooperation in order that it may keep informed of the species of insects liable to become pests, introduced through importations of foods.

ORGANIZATION AND PROCEDURE FOR IMPORT WORK.

208. Authority of chief of station.—Authority is delegated to the chief of station to inspect all invoices of foods and drugs offered for entry and the shipments covered by them, to order samples, and to cause suitable examination to be made. Analysts or inspectors designated by the chief of the station in most cases perform the actual work of inspection and examination.

209. Appraiser of merchandise furnishes invoices and samples.—The appraiser of merchandise or his examiners furnish the station chief opportunity for the inspection of all invoices and shipments of foods and drugs during the time examination of them is being made for the purpose of assessment of duty, and supply him with the samples requested. The appraiser notifies the importer that samples have been taken and that the shipment should be held pending the results of examination. Collectors at ports where station laboratories are not located advise regarding such invoices and the arrival of shipments, and send samples when requested to the station chief in whose territory the port is located.

210. Release to importer if no violation involved.—The chief of the station reviews the results of inspection and analysis, and, if no violation of the Act is indicated, notifies the importer that the shipment may be released in so far as the Department of Agriculture is concerned.

211. Notice to collector and importer if violation indicated.—If a violation of the Act is indicated, the collector of customs and the importer are notified by the station chief regarding the nature of the violation, in order that the collector shall refuse delivery of the goods and in order that the importer, at a hearing, may present evidence why the shipment should not be refused entry and either exported or destroyed. At the hearing the importer may express a willingness to bring the goods within the requirements of the Act by suitable relabeling or by renovation or cleaning of the goods. If such action is practicable, release may be recommended, conditioned upon the importer fulfilling certain requirements.

212. Recommendation to collector.—After the hearing, the station chief recommends to the collector that the goods be exported, or that they be permitted entry, or that they be released after certain conditions are complied with, which will bring the goods within the requirements of the Act. The collector thereupon notifies the importer regarding the disposition which he must make of the goods.

213. Reference of special cases to Chief of Bureau.—The station chief makes his decision, and reports it to the collector without reference of the matter to the district or to the Chief of the Bureau, except when he doubts the existence of a precedent for the action contemplated, or when special examination is required for which he has no facilities. In such cases the matter is referred by him to the district chief before action is taken, and it may in turn be referred by the district chief to the Chief of the Bureau for similar reasons. Samples of waters, and the therapeutic statements made in printed matter used with medicinal preparations are examined by staff specialists in Washington. Other special laboratories are also consulted in the case of appeals and of unusual shipments.

214. Importer's appeal.—The importer may appeal from the decision or the station chief to the district chief, and in turn may appeal from his decision to the Chief of the Bureau, and finally to the Secretary of Agriculture, and in each case may request a personal hearing. The decisions reached as a result of such appeals are transmitted to the collector by the station chief.

215. Disposition of shipments by importer under collector's supervision.—Three months are allowed from the time the collector notifies the importer regarding the disposition which he must make of the goods for bringing them within the requirements of the Act or for exportation. Special forms for exportation are required by the collector. He issues release when he is satisfied that the goods have been so renovated or relabeled, or otherwise modified or disposed of, that the requirements of the Act are fulfilled, and after further examination of the renovated goods by the station, if that is one of the conditions imposed. If other disposition has not been made of them at the end of 3 months, the goods are destroyed under customs supervision.

216. Collector's report of completed action.—The collector makes report to the station regarding the final action taken on all shipments. A copy of this report and an analytical report form (C. 771) covering inspection and analytical evidence, and a record of the action taken by the station are sent by the station to the district in duplicate, one copy being forwarded by the district to the Chief of the Bureau.

217. Importer's bond.—At the time the goods are offered for entry the importer is required by the collector to give bond, the full amount of which is to

be forfeited if the provisions of the Act are not complied with. If the conditions of the bond are violated, the matter is referred by the collector to the Secretary of the Treasury, who, after referring the matter to the Secretary of Agriculture for recommendation, imposes the conditions of settlement which must be complied with before the bond is canceled. Rather than comply with the conditions imposed, the importer may elect that suit be brought in court for adjudication and settlement of his financial liability.

PROCEDURE AT PORT LABORATORIES.

218. Imported foods and drugs accessible for inspection.—Shipments of foods and drugs imported from foreign countries are made available for inspection through examination of (1) invoices, (2) public store packages, and (3) wharf samples. This inspection is conducted concurrently with the classification and appraisement of the goods under customs regulations, which provide that a certain proportion of the units contained in shipments arriving in cases or packages shall be delivered to the public stores for examination and that some classes of loose or bulky goods shall be sampled on the wharf or other terminal by customs samplers, and such samples delivered to the customs examiner. The inspection of the merchandise under the Food and Drugs Act is conducted by a representative of the port laboratory during the time of examination by the customs officials.

INVOICES.

219. Invoices required for all shipments of foods and drugs.—All goods arriving from abroad are covered by some form of invoice which is filed with the collector of customs before or at the time the consignment arrives. This invoice is forwarded to the appraiser of merchandise at the port of entry for classification of the goods under the tariff. While in the hands of the appraiser the examination of these invoices furnishes a ready means for the inspection of all foods and drugs offered for entry into the United States, and also affords a complete record of all such importations.

Sections 2 and 3 of the Act of June 10, 1890, bearing directly upon the work of food and drug inspection, are as follows:

SEC. 2. That all invoices of imported merchandise shall be made out in the currency of the place or country from whence the importations shall be made or, if purchased in the currency actually paid therefor, shall contain a correct description of such merchandise, and shall be made in triplicate or in quadruplicate in case of merchandise intended for immediate transportation without appraisement, and signed by the person owning or shipping the same, if the merchandise has been actually purchased, or by the manufacturer or owner thereof, if the same has been procured otherwise than by purchase, or by the duly authorized agent of such purchaser, manufacturer, or owner.

SEC. 3. That all such invoices shall, at or before the shipment of the merchandise, be produced to the consul, vice consul, or commercial agent of the United States of the consular district in which the merchandise was manufactured or purchased as the case may be, for export to the United States, and shall have indorsed thereon, when so produced, a declaration signed by the purchaser, manufacturer, owner, or agent, setting forth that the invoice is in all respects correct and true, and was made at the place from which the merchandise is to be exported to the United States; that it contains, if the merchandise was obtained by purchase, a true and full statement of the time when, the place where, the person from whom the same was purchased, and the actual cost thereof and of all charges thereon, as provided by this Act; and that no discounts, bounties, or drawbacks are contained in the invoice but such as have been actually allowed thereon; and when obtained in any other manner than by purchase, the actual market value or wholesale price thereof at the time of exportation to the United States in the principal markets of the country from whence exported; that such actual market value is the price at which the merchandise described in the invoice is freely offered for sale to all purchasers

in said markets, and that it is the price which the manufacturer or owner making the declaration would have received, and was willing to receive, for such merchandise sold in the ordinary course of trade, in the usual wholesale quantities, and that it includes all charges thereon as provided by this Act; and the actual quantity thereof; and that no different invoice of the merchandise mentioned in the invoice so produced has been or will be furnished to anyone. If the merchandise was actually purchased, the declaration shall also contain a statement that the currency in which such invoice is made out is that which was actually paid for the merchandise by the purchaser.

220. Declaration of shipper.—Regulation 33 under the Food and Drugs Act requires that all invoices of foods and drugs must be accompanied by a declaration of the shipper. Treasury Regulation, Article 462. C. R., 1915. which relates to the same requirement, follows:

All invoices of foods, drugs, insecticides, fungicides, lead arsenates, and Paris greens shipped to the United States must have attached thereto a declaration of the shipper, made before a United States consular officer on Consular Form 198, if foods or drugs, or on Consular Form 218, if insecticides, fungicides, lead arsenates, or Paris greens.

Even though otherwise declared on the invoice or entry, all substances ordinarily used as foods or drugs, or insecticides or fungicides, will be treated as such. Shipments of substances ordinarily used as foods or drugs, intended for technical purposes, must be accompanied by a declaration stating that fact. If the Secretary of Agriculture shall so recommend, any such substances may be required to be denatured under supervision of that department. (Act June 30, 1906, sec. 3; Act April 26, 1910. T. D. 31038, 31073, 31847.)

FORM NO. 198—CONSULAR.
(Corrected July, 1916.)

DECLARATION OF SHIPPER OF FOOD AND DRUG PRODUCTS.

Regarding shipment covered by Invoice No. *397,* certified at *Liverpool, England,* on *November 13, 1918.*

I, the undersigned, am the *seller* of the merchandise mentioned and described in the accompanying consular invoice. It consists of food or drug products which contain no added substances injurious to health. These products were grown in *Ireland* and manufactured in *Ireland* by *myself and other curers* during the year *1918,* and are exported from *Liverpool* and consigned to *New York.* They bear no false labels or marks, contain no added coloring matter except ———, no preservative (salt, sugar, vinegar, or wood smoke excepted) except ——— and are not of a character to cause prohibition or restriction in sale in the country where made or from which exported, nor do I believe that they are of such a character as to prohibit their entry into the United States, in accordance with the provisions of the Food and Drugs Act.

I do solemnly and truly declare the foregoing statements to be true, to the best of my knowledge and belief.

Dated at *Liverpool, England,*
this *thirteenth* day of *November,* 1918.

(Signature) *JOHN DOE.*

INSTRUCTIONS TO CONSULAR OFFICERS.

1. This declaration is to be firmly attached to the extra copy of consular invoice on Form No. 138–140 or 139–140 of shipment over $100 in value.
2. The official seal must be firmly impressed on the declaration, and the number, date of certification of invoice, and name of post plainly indicated.
3. Shipper should be instructed to declare the name of the manufacturer whenever possible.
4. If the declaration is believed to be incorrect or incomplete or if consul believes that the goods are liable to detention he should note such information on the invoice in the consular corrections or remarks column.

In the case of importations to be entered at Baltimore, Boston, Buffalo, Chicago, Cincinnati, Denver, Minneapolis, New Orleans, New York, Philadelphia, San Francisco, San Juan, P. R., Savannah, Seattle, St. Louis, and other ports where food and drug inspection stations may be established, this declaration shall be attached to the invoice on which entry is made. In other cases the declaration shall be attached to the copy of the invoice sent to the Bureau of Chemistry.

Where the value of the goods is less than $100, the consul has a special form of invoice (Consular No. 197) in which the declaration of the shipper is made at the top of the sheet, preceding the description of goods.

All invoices over $100 in value are accompanied by declaration of shipper, Consular Form No. 198. At the ports where field stations are located, these declarations are attached to the invoice on which entry is made. Invoices of goods for ports of entry at which no laboratory is located, and for which a triplicate copy of the invoice is sent to the Bureau at Washington for inspection, have attached to the triplicate the declaration of the shipper.

In cases of shipments of food or drug products under $100 in value, the special form of invoice (No. 197) is forwarded direct to the Bureau of Chemistry or the field station.

It is quite essential that this declaration be attached to invoices, as it is the only means in many cases of knowing the true place of production of the goods and the true name of the manufacturer. Although the statement "manufactured in _____" appears in these forms, the declarations are intended to accompany all shipments of foods and drugs which have been subjected to any treatment. The consular officers are instructed that they need not furnish declarations on cane or beet sugar (raw or refined), fresh fish, nuts, or foods in their natural or unmanufactured state, such as barley, cereals, fruits, and vegetables, but are to furnish declarations on all manufactured foods and drugs, and under the head of manufactured goods is included products such as rice, coffee, dried fruits, shelled nuts, whole paprika, cocoa, tea, and other products which have been dried or treated in any manner. Spices and crude drugs also should have a declaration. The Bureau's attention should be called to all cases where these declarations are not attached to the invoices.

221. Exceptions where declarations are not required.—When the food or drug product forms an incidental and insignificant part of the other products in the invoice, this declaration may be omitted, or if the total value of the incidental food or drug products is less than $100, and provided, of course, that the food or drug products themselves are incidental and not the chief part of the invoice. Some of the consuls, especially the consul general at Hongkong, state that almost every shipment of Chinese goods from that port contains a small quantity of soy or ginger of only incidental value, thus imposing upon the exporter and upon the consul general a very considerable amount of labor in giving separate certificates for the food products themselves. When, however, the invoice is chiefly a food or drug product, or when any considerable portion of it consists of a food or drug product, the customary certificate will be required. (Instructions to laboratories, May 18, 1908.)

Under Food Inspection Decision 60 the Department has held that it is not necessary to have a declaration in the case of minor border importations such as farmers along the border bring in with their own teams, maple sugar in small cans, and like articles of food products of their own raising, and offer for entry at the different offices on the frontier.

Shipments of cream and milk from Canada which are the product of small farms lying near the boundary line and at a distance from any American consular officer are permitted entry if accompanied by declarations certified by the nearest United States customs officer, in lieu of having them certified before an American consul.

222. Special declarations.—In the following instances it has been found necessary to require special declarations with certain kinds of food products originating from certain localities.

223. Declaration for figs.—A special declaration is required for importations of figs from Smyrna, in Asia Minor. From investigations conducted by the United States consul at that port it was ascertained that many establishments were packing figs under extremely filthy and insanitary conditions. Through

the State Department arrangements were made whereby invoices of figs were required to be consulated upon a special form, which, in addition to a special declaration of the shipper, bears on the reverse side an endorsement by the consul certifying that the figs were packed under prescribed sanitary regulations. The following is an example of this form:

DECLARATION OF SHIPPER OF FIGS.

I, ..., do hereby solemnly swear that the figs herein mentioned and described and covered by invoice consulated on ....., sub number ....., consist of figs to which no substances injurious to health have been added. These figs were grown in Asia Minor, Turkey, and were worked in ..... by ..... during the year ..... and are exported from ..... and consigned to ..... The products bear no false labels or marks; contain $\frac{\text{no}}{\text{some}}$ added coloring matter or preservative ..... and are not of a character to cause prohibition or restriction in sale in the country where produced or from which exported. I further swear that none of the figs mentioned herein were purchased in a worked or partially worked condition from any other packing house.

Dated at Smyrna, Turkey, this ..... day of ....., 19.....

.....

Marks and numbers.	Description.	Price.	Amount.

[Back of Invoice.]

SPECIAL INVOICE OF FIGS.

Endorsement by Consul.

I hereby certify that it appears from a certificate on file in this office, delivered by the Ottoman Inspector of Agriculture of the Province of Aidin, Turkey, that the sanitary measures decreed by the administrative council of the Province on April 19 and July 24, 1910, to be observed in the manipulation of figs and in the packing establishments and by the workers employed to pack, as well as all subsequent regulations on this subject, have been duly carried out in the packing establishment represented by the person signing the within certificate, and I further certify that I have no reason to believe that the within mentioned goods, which are covered by invoice No._____ certified_____and shipped by_____ S/S. _____ from Smyrna to_____ were worked except in accordance with the regulations above mentioned.

_____,
U. S. Consul-General,
Smyrna, Turkey.

224. Special notation regarding Greek currants.—Similar insanitary conditions having been found to prevail among packers of Greek currants, and the matter having been called to the attention of the Department of State, instructions were issued to the consuls at Athens and Patras to enter a notation on consular invoices under the heading "Consular Corrections and Remarks," whenever the goods covered by the invoice are known to have been prepared in an insanitary manner, or without proper inspection.

225. Certificate for sardines.—In order to prevent the misbranding of sardines as to country of origin, a special certificate has been required to accompany invoices of such importations. A comparison of this certificate with the labels appearing upon the tins shows whether or not the country of origin has been properly stated. The form follows:

(Form No. 199—Consular.)

CERTIFICATE TO ACCOMPANY SARDINES.

I, *John Doe, A/S.* of *Stavanger, Norway,* do hereby declare under oath that I am the *manufacturer and seller* of the sardines specified in the annexed invoice and that they are *Norwegian* * sardines, caught in *Norwegian* * waters, and that they are not misbranded.

JOHN DOE.

Subscribed and sworn to before me this *11* day of *January,* 191*4*.

A. A. SIGMOND,

[L. S.] American----------

* Specify whether French, Portuguese, etc.

[NOTE.—Fee of $2.50 for invoice includes this certificate. If shipment is less than $100 in value and no invoice is issued, fee for this certificate is Official Fee No. 2—$1.00.]

226. Pro forma invoices.—A pro forma invoice is a provision of the customs regulations whereby, if for any sufficient reason, the regular invoice is delayed, a statement in the form of an invoice may be presented at the customhouse by an owner or importer, and, if duly verified, is allowed as a substitute, the consular invoice being filed later. Further, if the value of a shipment of goods is less than $100, it is not necessary to have a consular invoice, and, in such case, an entry is made on the pro forma invoice.

Samples may be requested from pro forma invoices in the same manner as from regular invoices (Art. 202, C. R., 1915).

227. Appraisement orders in lieu of invoices.—Whenever goods, the value of which is unknown to the importer, are received from abroad without an invoice, a special mode of entry is provided by customs regulations by which an order is issued by the collector of customs to the appraiser for the valuation of the goods. An appraisement order form provided for this purpose is forwarded to the appraiser in lieu of an invoice. Upon this form is entered a description of the amount and kind of merchandise, together with any distinguishing marks it may bear and any other available information regarding the goods. If the goods are valued at $100 or less, the value of the merchandise is entered on the form by the appraiser, and the document is then forwarded to the collector for assessment of duty and entry of the importation. This procedure can not be employed upon consignments having a value greater than $100, except by a special order from the collector. Appraisement orders are frequently used for small private importations, abandoned goods, and miscellaneous unclaimed items found by steamship companies on the wharves, or which have accumulated from the breaking of cargo packages during the process of unloading or handling. The condition of such goods usually warrants close inspection. Inspection of appraisement orders is carried out in exactly the same manner as in the case of invoices (Art. 294, C. R., 1915).

228. Examination of invoices.—It is the duty of the chief of the station, or person designated by him, to examine and inspect each and every invoice containing any item of food or drug product that may pass through the office of the appraiser of merchandise. Invoices covering American food and drug products returned from foreign countries should be inspected and examined in the same manner as those covering foreign goods, taking special precaution to determine whether or not the goods are in condition fit for consumption. The examination of invoices is made at such time and place as may be agreed upon by the appraiser of merchandise and the chief of the station, as provided by Article 466, Customs Regulations, 1915, as follows:

ART. 466. *Examination of invoices—Appraisement.*—The appraiser shall permit representatives of the Department of Agriculture to examine invoices of shipments of foods, drugs, insecticides, fungicides, Paris greens, and lead arsenates, and assistant appraisers and examiners will not allow invoices to pass finally from their custody until the invoices have been so examined. (Act June 30, 1906, sec. 11; Act Apr. 26, 1910, sec. 11.)

SAMPLES.

229. Requesting samples from shipments.—If the inspection of an invoice discloses any item of merchandise from which sample is desired, the person making the inspection should attach to such invoice in such a manner as to be readily noted by all persons handling the same, a white Sample Requested blank (C. 791) properly filled out, designating the particular case from which the sample is desired and the amount of such sample as indicated in Article 467, C. R., 1915, as follows:

ART. 467. *Sampling.*—If samples are desired at laboratory ports, the representative of the Department of Agriculture will attach to the invoice a request in the following form:

U. S. DEPARTMENT OF AGRICULTURE,
BUREAU OF CHEMISTRY.

FOOD AND DRUG PRODUCTS.

Laboratory No. ..... Sample requested.

Marks and Nos.	Article.	Amount.

Sample {ordered / forwarded} ....., 191...

.....
Examiner.

.....
Chief, Food and Drug Inspection Station. Port of.....

C. 791.

Samples with complete labels will be delivered by the appraiser or collector to the Food and Drug Inspection Station immediately. When samples are taken from bulk goods, a complete description of the label on the package should accompany each sample. Special note should be made of any statement on the package of any added substance.

If no samples are requested, the invoice will be so stamped by the representative of the Department of Agriculture.

Before returning the invoice the appraiser will see that it bears one of these evidences of examination.

230. Indicate shipments not sampled.—If the inspection of an invoice discloses no item of merchandise from which a sample is desired, the person making the inspection shall plainly stamp the invoice with the legend "No samples desired, Bureau of Chemistry, U. S. Department of Agriculture," to indicate that such invoice has been examined and no further action under the Food and Drugs Act will be taken by the Department of Agriculture relative to the merchandise therein described.

231. Detention of invoice covering item of merchandise not then available.—If the inspection of an invoice discloses an item of merchandise not then available for examination, and of which it can not be determined from description contained in invoice whether or not a sample is desired, it is the duty of the

person making the inspection to attach to the invoice, in such a manner as to be readily noted by all persons handling the same, a yellow Invoice Detention slip (C. 792) (see following form), properly filled out, describing the particular merchandise desired detained for inspection. (See Article 469, Customs Regulations, following.) When the merchandise covered by such detention shall have been inspected, the detention request slip should be removed, and if no sample be desired for analysis the invoice should be stamped "No sample desired," or, if a sample be desired for analysis, a Sample Requested slip attached in the manner above described.

ART. 469, C. R., 1915. *Detention of invoice prior to receipt of examination packages.*—If the representative of the Department of Agriculture desires to examine merchandise which has not yet been received in the appraiser's stores, he will attach to the invoice a detention slip in the following form:

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF CHEMISTRY.

FOOD AND DRUG PRODUCTS.

INVOICE DETENTION SLIP.

Action deferred for examination.
of public store cases.

Marks and numbers

_____,
Chief, Food and Drug Inspection Station.

C. 792.

When this slip is attached, the invoice will be held for further action by the representative of the Department of Agriculture.

232. Examination of goods not ordered to public stores.—Whenever possible, samples should be requested from cases ordered to appraiser's stores. If it be necessary to inspect samples from cases not in public stores, or detain invoices for inspection of such cases, the fact should be called to the attention of the Treasury official in charge, that the cases may be inspected as provided in Article 471, Customs Regulations, 1915. Requests for cases or packages to be brought to appraiser's stores for examination under such circumstances are ordinarily issued only for merchandise of the kind usually ordered to appraiser's stores. Loose or bulky goods which are classified by the appraiser from samples taken on the wharves or other terminals should be examined on the wharf or at the terminal by a representative of the station, or a Sample Requested slip should be attached to the invoice, and the necessary instructions issued to the Treasury official in charge, so that the required information regarding the label, kind of package, and general condition of the goods may be furnished with the sample. This is provided for in the second paragraph of Article 467, Customs Regulations, 1915, quoted on page 105.

Article 471, C. R., 1915, provides as follows: If at the time of inspection of any invoice by the representative of the Department of Agriculture it shall be found necessary to inspect packages not ordered to the public stores, the same may be ordered in the usual manner, or verified samples procured for the use of that department.

233. Record of samples requested.—At each inspection it is the duty of the person making the same to fill out in triplicate on the Imports Description of Sample form (C. 784) a description of all invoices from which samples have been requested. At completion of the inspection, one copy should be filed

with the chief clerk of the division from which samples are requested, for checking purposes, and the second copy should be delivered to the analyst with the sample for recording the results of analysis. The third copy will prove serviceable as an office record of samples under examination. Under the heading "Analysis" on the face of the form should be recorded a summary of the analytical results, while on the back of the form space is provided for the analyst to record the details of his analysis.

Port No. _____ Substance_____
(Port)

_____

_____

_____

Broker
Consignee_____Marks
Shipper
Manufacturer _____ _____
(No. cases, bags, etc.)

Cons. Inv. _____ Received_____
(Place) (No.) (Date)

I. T.

Steamer_____ Entry_____ Place of Prod. _____
(Date) (Is dec. of shipper lacking)

Action_____ No. of Samples_____ Inv. Price_____
(Date)

Amt. and value
Shipment_____ Voucher passed_____
(Total amt., lbs., etc.) (Unit price) (Total value)

Analysis:

Remarks and Conclusions of Chief of Station:

C. 784.—Imports—Description of sample.

INSPECTING SHIPMENTS.

234. Floor inspection.—Packages of merchandise ordered to the appraiser's stores are opened on the floor and examined by customs officials. At the same time inspection is conducted by a representative of the station, and, if samples are desired, the proper entries are made on a Sample Requested slip (C. 791), which is then attached to the invoice or appraisement order covering the importation. The samples will be taken from the packages by the proper customs officials and delivered to the port laboratory. If the nature of the package permits, the customs officer places a memorandum therein showing the amount and kind of sample that has been withdrawn for the Department of Agriculture. This memorandum is ordinarily used by the importer as a voucher for filing his claim for reimbursement, and, as a matter of convenience for checking purposes, arrangements should be made to have the laboratory number of the sample entered on this memorandum.

If floor inspection of the merchandise covered by a particular invoice reveals no reason for requesting a sample, the invoice is stamped "No sample desired." By cooperation with the customs examiners it is often possible to avoid the expense involved in the purchase of a large number of samples. This applies chiefly to inspections relating to the declarations of quantity of contents on packages. For tariff purposes it is often necessary for the customs officials to measure or weigh a large number of units of certain importations, and these data can be made available to the port laboratory without the expense involved in the purchase of any such samples other than those that may be necessary to show the manner of labeling.

235. Recording floor inspections.—At each inspection it is the duty of the person making the same to make a record in Floor Inspection Books, Foods and Drugs (C. 796 and 797), provided for such purposes, of the number of items inspected on the examiner's floor, from which no sample is taken, for the reason that the same appears to be in compliance with the Food and Drugs Act. In addition, a special record should be kept of all importations of crude drugs, using the Floor Inspection Book (C. 797). This record should include not only shipments passed after floor inspection, but also those from which samples are requested. Statistics from this record will be required from time to time by the Chief of the Bureau.

FLOOR INSPECTION.

Laboratory No.	Entry No.	Custom-house invoice No.	Importing vessel.	Consignor.	
				Name.	Address.

DRUGS.

Consignee.		Drug.	Quantity.	Price.	Value.	Remarks.
Name.	Address.					

C. 797.

236. Wharf inspection.—Certain classes of merchandise. because of their nature, and goods arriving in bulk without containers are not ordered into the appraiser's stores. Classification of such consignments are effected through samples drawn by customs samplers on the wharves and at the terminals and submitted to the appraiser for examination. These samples can not ordinarily be utilized for inspection purposes by the port laboratory for various reasons, such as insufficient quantity, lack of information relating to damage in case this has occurred in part of the shipment, and incomplete notations concerning markings or labels required by the Food and Drugs Act. Wharf goods are therefore inspected in two general ways: (1) Requesting samples from invoices; and (2) inspection of the goods on the docks by a representative of the station.

237. Samples of wharf goods from invoices.—When samples of wharf goods are requested from invoices the usual Sample Requested slip is attached to the invoice, and at the same time the customs official in charge is requested to furnish certain specific information with the sample, and, in special instances, also, to follow a prescribed method of sampling. Owing to the fact that merchandise of this kind is often removed from the docks before the invoices are available for examination, it is desirable to expedite sampling. When certain

kinds of goods are sampled continuously, this can be done by filing with the customs officials a standing request to procure samples from all importations of merchandise included in a list furnished by the station. This list, together with the necessary instructions, is then forwarded to the customs official, and the samples, together with the required information, promptly delivered to the port laboratory. When an invoice covering products contained in this list is encountered an Invoice Detention slip (C. 792) is attached to the invoice until the sample arrives, after which the Sample Requested slip (C. 791) is substituted.

238. Inspecting shipments on the dock.—Dock inspections by representatives of the port laboratories are much more expeditious than the last-mentioned procedure and obviate the expense of buying samples which visual examination shows are not required. Steamer arrivals, with place of dockage and the stage of the discharge of cargo, are known to the customs officials, and this information is secured from the proper office by the port laboratory. The ship's manifest, in possession of the customs inspector in charge of the vessel, is then examined. If it shows that the cargo contains merchandise which it is desired to inspect, such inspections are made directly on the dock, confining examinations only to consignments covered by delivery permits. These permits, held by the customs inspector, furnish evidence that the goods have been regularly entered at the customhouse for importation, and, in addition, give the shipping marks and similar information necessary for identification. Records of all consignments inspected are made, and samples are taken when examination in the laboratory is required. Meanwhile Invoice Detention slips are attached to invoices covering importations on the vessel being inspected, and, when the report of the sampler, together with the samples, arrive in the laboratory, a Sample Requested slip is substituted on the invoice. If no sample has been taken, the document is stamped "No sample desired," when the sampler's report shows that no further inspection is required.

239. Examining samples on the dock.—When a large number of importations of merchandise such as figs, olives, nuts, etc., arrive on a single vessel a still further saving of time may be effected by conducting the usual laboratory examination of the samples by competent experts directly on the dock. The samples are taken in the manner just described, and the reports of examination forwarded to the laboratory, accompanied by all the data necessary for the identification of the respective shipments. Upon arrival of the reports at the laboratory a Sample Requested slip is attached to the proper invoices which in the meantime have been held by the appraiser under Invoice Detention slips previously affixed as described. Such complete dock examinations obviously can be conducted only under suitable conditions as to working space, light, and protection from the weather.

240. Examining shipments after delivery to importer.—Merchandise which has been removed from the dock or terminal and delivered to the importer under redelivery bond or deposited in a bonded warehouse may be sampled and examined by customs samplers or by representatives of the port laboratory in ways similar to those described. Samples should be taken, however, before the goods are delivered to the importer if it is practicable to do so.

241. Importer notified of samples taken.—According to Article 468, Customs Regulations, 1915, the appraiser gives notice to the importer of samples taken, on the Appraiser's Notice to Importer form (C. 774), which should be supplied by the laboratory to the appraiser.

ART. 468, C. R., 1915. *Notice to consignee regarding samples.*—The appraiser shall immediately notify the consignee that samples have been, or will

be, taken, and that if found in violation of law he will be given further notice and an opportunity to appear before the representative of the Department of Agriculture to show cause why the goods should not be destroyed or exported.

Lab. No. *NY 73971.*

UNITED STATES CUSTOMS SERVICE,
OFFICE OF THE APPRAISER.
Port of *New York, March 21, 1918.*

John Doe,
100 Hudson St., New York, N. Y.

SIR: In accordance with the provisions of the Food and Drugs Act, June 30, 1906, the Secretary of Agriculture has requested, for the purpose of examination, samples from the following described importation. These samples will be taken by a Government official from the cases in the possession of the customs custody. The cost of these samples (*3 pounds*) will be paid to you upon presentation, within thirty days, of the proper voucher to the Chief of the Food and Drug Inspection Station of the Department of Agriculture for this district.

Pending this examination, you should not dispose of any of the goods heretofore delivered to you under the provisions of a penal bond given at the time of entry.

You will be notified immediately upon the completion of the analysis, and given an opportunity to present evidence if the importation is in any way contrary to law.

DESCRIPTION OF SHIPMENT.

Substance: *Maple Sugar.*
Consignee: *John Doe.* Entry No. *22156.*
Steamer: *Florizel 3/16/18.* Entered *3/16/18.*
Marks and numbers: *N/M 110 Bbls.*
Consular invoice: *Montreal 3162.*

Respectfully,
JOHN A. SAGUE,
United States Appraiser.

C. 774—Appraiser's Notice to Importer.

IMPORTERS' BONDS.

242. Delivery of unexamined packages under bond.—Unexamined packages of food and drug products may be delivered to the consignee prior to the completion of the examination, to determine whether the same are adulterated or misbranded, upon the execution of a penal bond by the consignee in the sum of the invoice value of such goods with the duty added, for the return of the goods to customs custody (Regulation 35, Bond, Imported Foods and Drugs, section 11).

Suspension of liquidation (Art. 475, C. R., 1915).—Liquidation of all entries of foods directed to be held pending examination by a representative of the Department of Agriculture will be suspended until it shall be ascertained whether or not delivery is to be refused under the law.

Entries covering goods which are exported or destroyed under these regulations will be liquidated free of duty as a "nonimportation," and the estimated duties will be refunded as an excess of deposits. (T. D. 24254, 33594, Abst. 32995.)

Delivery under bond (Art. 473, C. R., 1915).—Goods which have been sampled may be delivered to the consignee pending examination and decision in the matter on the execution of a bond on Customs Form 3385 or 3387 for the amount of the full invoice value of such goods, together with the duty thereon, and on refusal of the consignee to return such goods for any cause to the custody of the collector when demanded, for the purpose of excluding them from the country or for any other purpose, said consignee shall forfeit the full amount of the bond. (Act June 30, 1906, sec. 11; Act Apr. 26, 1910, sec. 11.)

243. Form of three bonds used.—Customs Forms 3385 and 3387, mentioned in Article 473, Customs Regulations, 1915, quoted above, have been abolished as indicated in Treasury Decision 37246, issued June 29, 1917. Three bonds providing for the redelivery of importations of foods and drugs are now in

use. The first of these is designed to cover entries intended for sale and consumption within the United States of single importations, the second, a form of bond designed to cover all importations intended for entry, sale, and consumption within a certain specified period, and the third provides for the redelivery of importations placed in bonded warehouses.

The text of these 3 bonds as given in T. D. 37246 is as follows:

Customs Cat. No. 7551.

CONSUMPTION ENTRY BOND (SINGLE ENTRY).

(To redeliver merchandise, to produce documents, to pay duties and charges due on final liquidation, to perform conditions of release, such as to label, hold for inspection, set up, etc. To be taken in all cases when delivery is requested prior to inspection, examination, or liquidation.)

Know all men by these presents, that ——— ———, of ———, as principal, and ——— ———, of ———, and ——— ——— of ———, as sureties, are held and firmly bound unto the United States of America in the sum of ——— dollars, for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this ——— day of ———, 19—.

Whereas certain articles have been imported at the port of ——— and entered at said port for consumption on entry No. ——, dated ———, 19—, and described therein; and

Whereas the said principal desires delivery of said articles prior to the ascertainment by customs officers of the quantity and value thereof, and of the full amount of duties and charges due thereon and prior to the decision by the proper officer as to the right of said articles to admission into the United States.

Now, therefore, the condition of this obligation is such, that—

(1) If the said principal shall redeliver to the order of the collector of customs at said port all of the said articles that may be lawfully demanded by him, in accordance with the provisions of section 2899, Revised Statutes, the Tea Act of March 2, 1897, the Food and Drugs Act of June 30, 1906, the Meat Inspection Act of June 30, 1906, the Insecticide Act of April 26, 1910, the Plant Quarantine Act of August 20, 1912, the Seed Importation Act of August 24, 1912, and all other statutes of the United States in effect on the date of the release of said articles, and shall fully comply with all of the provisions of said statutes and the regulations thereunder, and if the said principal shall mark, label, clean, fumigate, destroy, export, and do any and all other things in relation to said articles as may be lawfully required, and shall hold the same for inspection and examination, or in the event of failure to comply with any or all of the conditions set forth in this section shall pay to said collector an amount equal to double the value of said articles as stated in said entry;

(2) And if said principal shall deliver to the said collector such consular invoices, declarations of owners or consignees, certificates of origin, exportation, and other declarations, certificates, and documents as may be required by law or regulation in connection with the entry of said articles, and in the form and within the time required by law or regulations, or any lawful extension thereof, or in the event of failure to comply with any or all the conditions of this section shall pay to said collector an amount equal to double the estimated duty on said entry, or if the merchandise be free of duty the sum of $100;

(3) And if the said prinicipal shall pay to the said collector when demanded all duties and charges found legally due and unpaid on the final liquidation of said entry, then this obligation shall be void; otherwise it shall remain in full force and effect.

——— ———[SEAL.]
——— ———[SEAL.]
——— ———[SEAL.]

Signed, sealed, and delivered in the presence of—

——— ———.
——— ———.

Customs Cat. No. 7553.

CONSUMPTION ENTRY BOND (TERM).

(To redeliver merchandise, to produce documents, to pay duties and charges due on final liquidation, to perform conditions of release, such as to label, hold for inspection, set up, etc. To be taken in all cases when delivery is requested prior to inspection, examination, or liquidation.)

Know all men by these presents, that ——— ———, of ———, as principal, and ——— ———, of ———, and ——— ———, of ———, as sureties, are held and firmly bound unto the United States of America in the sum of ——— dollars, for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this ——— day of ———, 19—.

Whereas the above-bounden principal expects to enter for consumption certain imported articles at the port of ——— during the period from ——— to and including the last day of ——— and may request the delivery of all or part of the articles prior to ascertainment by customs officers of the quantity and value thereof, and of the full amount of duties and charges due thereon and prior to the full payment thereof and to the decision by the proper officer as to right of said articles to admission into the United States:

Now, therefore, the condition of this obligation is such that—

Three conditions, identical with those of the single-entry bond, paragraph (a), follow.

Customs Cat. No. 7555. No. —.

WAREHOUSING BOND.

(To pay duties and charges, to export or transport, to produce documents, return packages, furnish evidence, perform conditions, etc.)

Know all men by these presents, that ——— ———, of ———, as principal, and ——— ———, of ———, and ——— ———, of ———, as sureties, are held and firmly bound unto the United States of America in the sum of ——— dollars, for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this —— day of ———, 19—.

Whereas certain articles described in —— warehouse entry No. ——, dated ———, 19—, have been imported at the port of ———, from ———, in the ———, arrived ———, 19—, and have been entered under the laws providing for the warehousing of merchandise in bond.

Now, therefore, the condition of this obligation is such that—

(1) If within 3 years from the date of original importation the said articles shall be regularly withdrawn from public store or bonded warehouse, on payment of the full amount of duties and charges legally due on the said articles, and if any other duties and charges subsequently found legally due thereon shall be paid to the collector of said port when demanded by him;

(2) Or, if at any time within 3 years from date of original importation the said articles shall be withdrawn for transportation to other customs districts, or for bona fide exportation, and the said articles shall be so transported and rewarehoused at the port of destination or actually exported beyond the limits of the United States and not relanded therein, and if proof of the transportation and rewarehousing at destination or of lading under customs supervision and actual exportation from the United States be furnished to the said collector in the form and within the time required by law or regulation or any lawful extension thereof;

(3) Or, if said articles shall be withdrawn without the payment of duty under the provisions of section 16 of the Act of June 26, 1884, and of section 4 of the Act of October 3, 1913, or any Act of Congress in effect on the date of the withdrawal of said articles, and if the evidence required by law and regulations of the Treasury Department be furnished to the collector of customs aforesaid within the time and in the form prescribed that the articles have been actually used in the manner and for the purpose entitling them under the law to such remission of duty;

(4) And if the above-bounden principal shall deliver to the aforesaid collector of customs such consular invoices, declarations of actual owners or ultimate consignees and certificates of origin, and other declarations, certificates, or documents, as may be required by law or regulations in connection with the entry of said articles, in the form, and within the time required by law or customs regulations, or any lawful extensions thereof;

(5) And if the said principal shall redeliver to the order of the collector of customs aforesaid all of said articles that may be lawfully demanded by the said collector, in accordance with the provisions of section 2899, Revised Statutes, the Food and Drugs Act of June 30, 1906, the Meat Inspection Act of June 30, 1906, the Insecticide Act of April 26, 1910, the Plant Quarantine Act of August 20, 1912, the Seed Importation Act of August 24, 1912, and all other statutes of the United States, amendments thereto, or regulations thereunder in effect on the date of the release of said articles, and if the said principal shall mark, label, clean, fumigate, destroy, export, and do any and all other things in relation to said articles as may be lawfully required and shall hold the same for inspection and examination, then this obligation shall be void; otherwise it shall remain in full force and effect.

_____ _____. [SEAL.]
_____ _____. [SEAL.]
_____ _____. [SEAL.]

Signed, sealed, and delivered in the presence of—

_____ _____.
_____ _____.

SAMPLING IMPORT SHIPMENTS.

244. Number of samples.—The number or amount of samples to be taken varies according to the character of the importation and the nature of the examination required in each particular case. In general, a sufficient number of cans, bottles, or packages of small size should be taken to permit an original and a check analysis to be made.

245. Sampling decomposed foods.—Whenever spoilage or decomposition of the goods is suspected the number of samples examined should be sufficient to represent the average condition of the consignment and to warrant a decision on the proper disposition of the merchandise. In many instances, such as swelled canned goods and fermented or "blown" fruit juices, it is sufficient to inspect a representative number of cases and determine the percentage of units that from external appearance are "swelled" or "blown," this inspection to be confirmed by examination in the laboratory of a small number of typical samples.

246. Sampling for quantity of contents.—Examinations for quantity of contents are effected by ascertaining the average gross weight of as many units as possible, which are returned to the importer, retaining a sufficient number (usually two or three) to ascertain the tare and, in the case of liquids, the specific gravity. From the report of the customs weigher or examiner who makes these examinations for tariff purposes, it is often possible to secure all the necessary data as to quantity of contents without taking samples.

247. Sampling bulk goods.—In the case of bulk goods arriving in bags, bales, or other large containers, each shipping mark should be examined separately, samples to be taken if possible from 20 per cent of the units if the shipment consists of 25 packages or less, from an additional 10 per cent of shipments consisting of 25 to 100 packages, and from an additional 5 per cent of the packages exceeding 100.

In the case of consignments shipped in bulk without containers, such as Brazil nuts, care should be exercised to insure that samples are taken from many different parts of the cargo and that the sample is of sufficient size to form a correct conclusion as to condition. In such cases it is often found that goods

stored near the sides of the vessel or near the hatches have been damaged while the bulk of the shipment is sound. In the case of bulk goods of any kind partial damage of the shipment is apt to occur, which fact should be kept in mind during inspection of the merchandise.

248. Sampling crude drugs.—Special care must be exercised to secure representative samples of crude drugs, and specific directions should be issued for the sampling of each class of such importations in order that the shipments may be truly represented by the samples.

249. Sampling essential oils.—A sample from one container of each shipping mark of importations of essential oils is usually sufficient unless there is good reason to believe that the consignment is not of uniform quality.

250. Sampling Sherley Amendment preparations.—Shipments involving possible violation of the Sherley Amendment should be sampled so that one copy of all the labels and circulars may be forwarded to the Office of the Chief of the Bureau of Chemistry and one copy retained in the office of the port laboratory, unless facilities exist at the port laboratory for making photographic copies of the labels and literature for its files. The last procedure is usually unnecessary except in the case of very small or very expensive shipments.

251. Sampling mineral water.—Samples of mineral water should consist of not less than 6 bottles, when the shipment is not over 3 cases, and not less than 12 bottles from larger shipments, the 12 bottles being obtained from 6 or more cases.

252. Additional samples may be secured.—If for any reason it is considered that the original sample may not be representative of the shipment or insufficient for adequate analysis, additional samples may be secured through a request addressed to the proper customs official, or by a representative of the port laboratory, the importer being informed that payment for such samples will be made by the Department of Agriculture in the usual way.

ANALYSIS AND EXAMINATION OF IMPORT SAMPLES.

253. Recording samples.—As soon as the samples have been delivered to the laboratory, the date of receipt should be entered upon Imports Description of Sample form (C. 784), and the proper laboratory number given to the sample. It is the duty of the station upon the receipt of samples to make the examination and analysis thereof with all possible expedition.

254. Reporting analysis.—When examination and analysis have been completed, the results are reported to the chief of the station upon the Imports Description of Sample form. The conclusions drawn from the report and the action to be taken by the station are next entered by the station chief upon this form which then furnishes the data necessary for issuing a release if no violation is detected or for issuing the detention notices to the importer and collector of customs when violations of the laws are indicated.

From the Imports Description of Sample form, and notices sent out is then prepared the analytical report form (C. 771), provided for this purpose. An original and two copies should be prepared for all shipments released, and one extra copy in case the shipment is detained.

Substance: *Maple sugar.* Port No. *NY 73971.*
(*as invoiced*)

4/4/18: Adulterated in that it contains an added substance, namely, cane sugar.

5/7/18: To Collector: The importers have requested permission to secure the release of this importation after proper labeling. There will be no objection on the part of this laboratory to the release of the goods, provided each of the barrels is plainly and conspicuously marked "Compound Maple and Cane Sugar," provided further that a guaranty is furnished to your office that the merchandise will be used only in the manufacture of compound maple and cane sugar sirup, and that this sirup will be properly labeled; and under the further proviso that the name of the firm who will manufacture, pack, and label the sirup will be furnished to your office.

(*Signed*) *W. J. BREESE,*
Chief of Station.

Port No. *NY 73971.* Label *Maple Sugar.*

Broker
Consignee *John Doe, New York, N. Y.* Marks *n/m*
110 bbls. $2,000.
(Quantity and value.)

Shipper
Manufacturer *Richard Roc, Montreal, Canada.*
(Address.)

Cons. Invoice, *Montreal, 3162, March 6, 1918.* Received *March 25/18.*
(Place.) (No.) (Date consulated.)

Steamer, *Florizel, March 16, 1918.* Entry, *22156.* Action, *Detained 4/1/18*
(Date.) I. T. No. (Date.)

Place of Production, *Canada.*
(Is dec. of shipper lacking.)

Analysis:

No.	*Lead No.*	*Ash.*	*Water insol. ash.*	*Water sol. ash.*	*Alk. of water sol. ash.*	*Alk. of water insol. ash.*
1	*1.05*	*0.47%*	*0.26%*	*0.21%*	*0.18 cc. N/10 HCl per gr.*	*0.58 cc. N/10 HCl per gr.*
2	*1.17*	*0.52*	*0.25*	*0.27*	*0.24*	*0.68.*
3	*1.18*	*0.53*	*0.26*	*0.27*	*0.28*	*0.87.*
4	*1.93*	*0.76*	*0.34*	*0.42*	*0.38*	*0.40.*
5	*1.24*	*0.59*	*0.28*	*0.31*	*0.24*	*9.58.*
6	*1.81*	*0.76*	*0.32*	*0.44*	*0.42*	*0.65.*

All results on dry basis. F. T. A. Adulterated with cane sugar. (Each sample taken from a different barrel.)

W. J. BREESE.

C. 771.—Imports—General.

255. Completing analysis and report.—The analysis should be sufficiently complete to detect possible violations of the Act. The results should be entered on the analytical report form, under the heading "Analysis," with the initials of the analyst placed directly under the statement of the analysis made by him. *Under "Analysis" should appear the evidence on which the action taken is based. This should cover not only the complete analytical evidence but also a reference to evidence gained by inspection of the shipment or sample, pertinent comments, and a brief statement by the chief of the station giving the conclusions to be drawn from the results of the analysis, and from all other evidence at hand. The evidence reported on the analytical report must be sufficiently full clearly to warrant the action taken.* The completed report should be signed by the chief of the station.

After the appropriate headings on the analytical report, entries should be made giving the complete information available to the station. Special care should be observed to state clearly the exact nature of the substance, if this is not accurately shown by the label as copied and by the substance as invoiced, e. g., if they show only that the product consists of cherries, it is

necessary to indicate whether the product is fresh, dried, glacé, preserved, in maraschino, etc. Otherwise, when the report is later reviewed it is impossible to determine whether or not suitable examination was made and proper action taken, nor can the cards be indexed under exact headings for accurate further reference in the office of the Chief of the Bureau. These reports are often referred to for information by the staff laboratories in Washington, and are consulted when general rulings regarding a particular product is contemplated.

ACTION ON IMPORTED SHIPMENTS.

256. Initial action.—As the result of inspection of the shipment and analysis of the sample, the shipment may be (1) released, (2) released without prejudice, (3) released with warning, or (4) detained. This action is taken by the station chief, and depends upon the nature of the evidence at hand and whether or not there appears to be a violation of the Act and upon the nature of such violation.

The initial action to be taken has been prescribed by the Chief of the Bureau in the case of medicines involving possible violation of the Sherley Amendment, shipments of mineral waters, and shipments covered by the Harrison Act.

257. Shipments under Sherley Amendment.—Samples bearing claims relating to the therapeutic value of the preparation must be analyzed as promptly as possible, and if no record of the action taken by the Chief of the Bureau upon a recent shipment of the same goods is available, the therapeutic claims should be considered carefully. Unless these claims appear to constitute a serious misbranding, the shipment should be released without prejudice, and the labels and literature, together with the analytical report, forwarded to the Chief of the Bureau, copies of these data being sent at the same time to the chief of the district. These will be considered by the Bureau staff specialists, and a report will be forwarded to the station, through the chief of district, indicating the nature of the violations, if any, that should be called to the attention of the manufacturer through the importer, and advising what action should be taken with regard to future importations of the same goods. In those cases, however, where the misbranding seems to be of such a serious nature that the release of even a single shipment should not, in the judgment of the chief of the station, be permitted, and when conditions necessitate a speedy disposition of the shipment, the chief of the station may require whatever changes in the labeling he considers necessary to bring it within the law. At the hearing the importer should be informed that the printed matter relating to the goods will be submitted to the Bureau for more complete review by its medical experts, and that he will be advised as to the objections made, which will apply to future importations. He should, therefore, be given the opportunity to submit for transmittal any statement which he may desire to make in this connection. A copy of the labeling, together with an account of what changes were required, the reasons for them, and any statement from the importer, should be forwarded to the Chief of the Bureau as soon as possible, so that action on subsequent shipments may be indicated. (See also paragraph 301.)

If the station prefers to obtain a criticism by the staff experts before taking action in such instances, initial action may be deferred, and a sample with complete information regarding the shipment forwarded to the Chief of the Bureau, requesting that the matter be given immediate attention. A criticism of the labeling with instructions will then be sent to the station with the least possible delay.

A card giving all available information concerning this preparation, together with instructions enabling the station to take definite action with respect to future shipments, is then prepared and sent to all stations to insure uniform action. If the records of the port laboratory show that the Chief of the Bureau has passed upon a previous shipment of the same goods labeled in the same way, this may be considered a precedent for direct recommendation to the customs officials without further reference to the Chief of the Bureau.

258. Mineral water shipments.—When samples of mineral waters are received and the records of the station show that no recent importation has been passed upon by the Chief of the Bureau, or if the records show that the most recent importation has been released, the shipment should be released without prejudice and the samples forwarded to the Chief of the Bureau. The Chief of the Bureau will advise the station, through the chief of the district, concerning the results of the examination, indicating the action to be taken with respect to future importations and in certain cases the nature of the warning to be sent to the shipper through the importer.

If, on the other hand, the records of the station show that a recent shipment has been passed upon by the Chief of the Bureau, his instructions in that case regarding release or detention should be followed and samples forwarded to the Bureau as in the previous instance. Instructions concerning the disposition of the shipment will thereupon be forwarded by the Chief of the Bureau, through the district chief, to the station.[1]

259. Narcotics (Harrison Act).—When importations are found to contain narcotic drugs and appear to come within the provisions of the Harrison Act, the local Treasury official charged with the enforcement of that Act should be notified and furnished with the analysis and all other available information regarding the shipment. The goods may be released, provided they are labeled in accordance with the terms of the Food and Drugs Act, and no attempt should be made to cause the exclusion of the shipment as dangerous to the health of the people of the United States under section 11 of the Food and Drugs Act, unless such action on the part of the station is specifically requested by the local Treasury official in charge. It is advisable that the chief of the port station confer with the local Treasury official, that a general understanding may be reached as to the means by which cooperation between the two offices in such instances may be effected. (See paragraphs 181–183 for further details.)

260. Release.—If inspection of the merchandise and analysis of the samples reveal no violation of the Food and Drugs Act, the importer shall be notified by means of the Release form (C. 779), shown on page 118, that the examination has been completed and no further detention of the shipment is desired by the Department of Agriculture. In such instances the analytical report is prepared in triplicate, one copy to be retained in the files of the station, the original and one copy to be forwarded to the chief of the district. After review by the district chief, the original analytical report is forwarded to the Chief of the Bureau, together with the indorsement of the district office, showing its approval or disapproval, as well as references to any correspondence with the station pertaining to the shipment in case such correspondence was found necessary.

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[1] Cards on "Mineral Waters and Salts, Imports," which give reports on shipments analyzed and instructions as to future shipments, are issued to all stations.

Lab. No. *NY 76047.*

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF CHEMISTRY.

December 30, 1918.

John Doe,
100 Hudson St., New York, N. Y.

SIR: The inspection of the shipment described below has been completed, and it will not be further detained by this Department.

DESCRIPTION OF SHIPMENT.

Substance: *Honey.*
Consignee: *John Doe.* Entry No. *W. H. B. 22782.*
Steamer: *Monterey.* Entered *12/16/18.*
Marks and numbers: *F. A. K.*
New York 18 Bbls.
1/34 16 Cases. } *34 Packages.*
Consular invoice: *Tampico. 1037. Nov. 22, 1918.*

Respectfully,

W. J. BREESE,
Chief, Food and Drug Inspection Station.

C. 779.—Release.

261. Copy of Release to collector.—At some ports the collector desires a copy of the Release notice which is sent to the importer. At such ports the station should regularly forward a copy to collector.

262. Release without prejudice.—This action is taken when the station considers that there is some question as to what constitutes a proper standard of purity or identity for the substance, or as to what constitutes a proper labeling, or upon instructions from the Chief of the Bureau. It implies the possibility that further information regarding the article might make necessary the detention of future shipments, and lessens the prejudice to such action that a straight release might occasion.

The importer's notice of release should bear a statement in the space preceding "Description of shipment" as follows: "This action is taken without prejudice to future decisions in similar instances." An original and 2 copies of the analytical report are prepared and disposed of in the same way as the Release forms (paragraph 260).

263. Release with warning.—This action is taken after general or specific instructions have been issued by the Chief of the Bureau. Such action is usually taken in those cases where there is reason to believe that in the past shipments of similar nature have not been objected to, and where fairness to the trade seems to require that warning be given before detentions are made, and that instructions be sent all stations to insure uniform action. A new ruling or standard is usually involved. On appeal, it is sometimes granted in cases which involve old rulings where the letter rather than the spirit is chiefly involved. If a shipment of goods involving only misbranding and the correction of labels has been released with warning, current shipments should also be released with warning, and definite detentions made only when the date of consulation shows that a period sufficient to allow a correction of the labeling has elapsed. In cases involving any form of adulteration, a definite date for detention is usually set by the Chief of the Bureau, and is indicated in the notice of warning to the importer.

The warning should be given in a letter accompanying the Release form. When practicable, an exact copy of the warning, with date when sent, should be given on the analytical report. Otherwise, it should be briefed. When there has been or will be forwarded other correspondence concerning the particular shipment, copies of the letter of warning to the importer should be forwarded in duplicate to the district (one copy being for the Chief of the Bureau).

An original and 2 copies of the analytical report should be prepared and disposed of as indicated for the Release form.

ACTION IF VIOLATION OF ACT INDICATED.

264. Importer's notice of date of hearing.—If the inspection or analysis reveals such noncompliance with the law as is deemed to require action on the part of the Department of Agriculture, it shall be the duty of the chief of the station (according to Regulation 36, which follows) to forward at once to the importer, on Importer Date of Hearing form (C. 777), given below, a notice stating the general nature of the violation which has been ascertained, and fixing a time at which the importer may be present and submit in person or in writing testimony as to the exclusion of the shipment from entry into the United States. Such date of hearing shall be set for not longer than 3 days after date of detention, Sundays and holidays excepted.

REG. 36. *Notification of violation of the law (sec. 11).*—If the sample on analysis or examination be found not to comply with the law, the importer shall be notified of the nature of the violation, the time and place at which final action will be taken upon the question of the exclusion of the shipment, and that he may be present and submit evidence, which evidence, with a sample of the article, shall be forwarded to the Bureau of Chemistry, at Washington, accompanied by the appropriate report card.

The chief of station should take action on the evidence and report directly to the collector of customs the conclusions drawn from the results of analysis and inspection.

If no precedents have been established, and the chief of the station is in doubt as to action, he should submit the evidence, together with a sample of the goods, to the district chief, who will in turn refer the case to the Chief of the Bureau if such action seems necessary.

Lab. No. *NY 73971.*

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF CHEMISTRY.

New York, April 1, 1918.

John Doe,
100 Hudson St., New York, N. Y.

SIR: Inspection and analysis of the sample from the following described shipment having led to the result indicated below, you are hereby notified that action under the provisions of the Food and Drugs Act, June 30, 1906, as to the exclusion of said shipment from consumption in the United States will be taken at the laboratory of the Department of Agriculture at *Room 1034, 641 Washington St., New York, N. Y.*, three days (Sundays not included) from the above date, at which time and place you may be present and submit testimony, or at or before which time you may file a statement in writing.

DESCRIPTION OF SHIPMENT.

Substance: *Maple Sugar.*
Consignee: *John Doe.* Entry No. *22156.*
Steamer: *Florizel, 3/16/18.* Entered *3/16/18.*
Marks and numbers: *N/M 110 bbls.*
Consular invoice: *Montreal 3162.*
Results of analysis: *Adulterated in that it contains an added substance, namely cane sugar.*

Respectfully,

W. J. BREESE,
Chief, Food and Drug Inspection Station.

C. 777—Importer—Date of Hearing.

265. Collector's notice of detention.—In case the inspection or analysis discloses such violation as to require action on the part of the Department of Agriculture, the chief of the station shall also request the collector of customs (or other customs officer having charge of importations), on Collector Detention form (C. 775) that he refuse the delivery of said importation or part of importation therein described pending final action of the Department of Agriculture upon the shipment involved, making a general statement at the bottom of the form as to wherein the product does not comply with the law.

Lab. No. *NY 73971.*

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF CHEMISTRY.

New York, April 1, 1918

COLLECTOR OF CUSTOMS,
Port of *New York.*

SIR: By authority of the Secretary of Agriculture I have to request that you refuse delivery, or, if the same be not in your custody, that you require the return thereof, pending action thereupon under the provisions of the Food and Drugs Act, June 30, 1906, of the following described merchandise, a sample of which has been inspected by the Department of Agriculture with the results indicated below.

DESCRIPTION OF SHIPMENT.

Substance: *Maple Sugar.* Place of production: *Canada.*
Consignee: *John Doe.* Entry No. *22156.*
Steamer: *Florizel, 3/16/18.* Entered *3/16/18.*
Marks and numbers: *N/M 110 Bbls.*
Consular invoice: *Montreal, 3162.*
Results of analysis: *Adulterated in that it contains an added substance, namely, cane sugar.*

Respectfully,
W. J. BREESE,
Chief, Food and Drug Inspection Station.

C. 775.—Collector—Detention.

ART. 474, Customs Regulations, 1915. *Rejected goods.*—If upon examination it be found that the goods are not entitled to admission, the representative of the Department of Agriculture will give notice thereof to the importer, and will also notify the collector. Upon receipt of such notice the collector or appraiser will refuse delivery of the examination packages, and if a redelivery bond was given on entry will demand the return of the unexamined packages under the terms of the bond, and will require the goods to be destroyed if not exported under customs supervision within three months from the date of the notice of the rejection.

The collector of customs may, however, at any time within three months from the date of the notice of rejection release the merchandise upon the written recommendation of the representative of the Department of Agriculture. (Acts June 30, 1906, and Apr. 26, 1910, secs. 4 and 11.)

266. Appraiser's notice to delay return.—If it should be necessary to expedite the detention of goods, the appraiser will delay return of appraisement under Article 470, C. R., 1915, as follows:

ART. 470. *Delay of appraisement.*—The appraiser will delay the return of the invoice and withhold delivery of the packages, pending examination by the representatives of the Department of Agriculture, only upon their written request specifying the particular shipment to be held and stating the reasons therefor.

This request should be made on the following form, Appraiser Delay Return (C. 773).

Lab. No. *NY 73971.*

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF CHEMISTRY.

New York, April 1, 1918.

APPRAISER OF MERCHANDISE,
Port of *New York.*

SIR: A report has been made to the collector regarding the shipment of goods described below. You will please delay your return of appraisement until further notice.

DESCRIPTION OF SHIPMENT.

Substance: *Maple Sugar.*
Consignee: *John Doe.* Entry No. *22156.*
Steamer: *Florizel, 3/16/18.* Entered *3/16/18.*
Marks and numbers: *N/M 110 bbls.*
Consular invoice: *Montreal, 3162.*
Results of analysis: *Adulterated in that it contains an added substance, namely, cane sugar.*

Respectfully,
W. J. BREESE,
Chief, Food and Drug Inspection Station.

C. 773.—Appraiser—Delay return.

The filing of this form detains the invoice in the appraiser's stores, and prevents its being returned to the customhouse, where it would be liquidated and a permit issued for the delivery of the examination packages or the goods on the dock. This form is frequently used to delay the return of an invoice until Collector Detention and Importer Date of Hearing forms can reach the proper persons.

It should be employed at ports where the appraiser or certain examiners desire such notice for proper holding of invoices. As it is necessary that this request for delay be canceled before the invoice can be returned to the collector, in all cases where this form is used it should be canceled by means of the Release form (par. 260).

RECOMMENDATION TO COLLECTOR REGARDING DISPOSITION OF SHIPMENT.

267. Statement of violation to collector of customs.—After the hearing granted to the importer it is the duty of the chief of the station to consider the evidence submitted, and make an appropriate recommendation to the collector of customs. If no precedents have been established and the station chief is in doubt as to action, he should forward the evidence, together with his recommendation, the original and copy of the analytical report, and a sample of the goods to the chief of the district, who will in turn refer the matter to the Chief of the Bureau if it appears to be necessary. The recommendation to be made to the collector of customs will be transmitted by the district chief to the chief of the station, who will then forward the decision to the collector of customs.

If shipments are detained, an original and 3 copies of the analytical report should be prepared. The original and 1 copy are for the district chief, and 1 copy is for the station files, while 1 copy, with the analysis omitted, serves as a statement of the violation to the collector of customs.

The statement forwarded to the collector should bear, in addition to the description of the shipment, an entry showing wherein the product is adulterated or misbranded and a recommendation for the proper disposition of the merchandise under the Food and Drugs Act. This recommendation should indicate whether or not the importer replied to the notice of hearing, and, if he requested permission to correct adulteration or misbranding, should indicate the method proposed, and whether or not it will be satisfactory to this Department, and, if it is not, a satisfactory disposition should be recommended. Any further information which may assist the collector in accomplishing a proper correction of the violation should be added.

This report to the collector will be exactly the same as the analytical report (paragraph 254), except that the data under "Analysis" are omitted.

268. Action after hearing.—As a result of the hearing, shipments may be released, released after certain conditions have been observed, or reshipped.

269. Release to collector of customs.—If the evidence submitted by the importer at the hearing is of sufficient weight to overcome the objections based on the analysis or inspection, the chief of station should request the collector of customs to release the shipment involved. This request should be made in the statement to the collector of customs on the analytical report (paragraph 254). The following is an example of such a request:

6/20/18. STATEMENT TO COLLECTOR OF CUSTOMS.

The importer has appeared and produced evidence to show that through error the certificate of maturity covering this importation was not attached to the consular invoice. This certificate which is herewith enclosed has been pro-

duced by the importer and found to be in proper form. No further objection will, therefore, be interposed by this Department to the release of the shipment.

(Signed) W. J. Breese,
Chief of Station.

270. Conditional release.—Shipments may be released after certain conditions have been observed, such as relabeling, cleaning or sorting, relabeling and utilizing for certain purposes by specified firms, and denaturing.

271. Release after relabeling.—When the violation may be corrected by relabeling and the importer has not received from the same shipper a previous shipment of the same goods misbranded or adulterated in the same way, or sufficient time has not elapsed since the previous importation to permit the shipper to correct his labels, permission may be granted to relabel. The following is an example of the statement sent to the collector of customs in such instances:

12/30/18. STATEMENT TO COLLECTOR OF CUSTOMS.

The importer has appeared at this laboratory and requested permission to secure the release of this shipment after proper labeling. There would be no objection on the part of this Department to the release of the goods, provided the statement "1 qt.," now appearing on the principal label of each bottle, is covered with a paster securely attached bearing the legend in plain and conspicuous type "1 pint 8 fluid ounces."

(Signed) W. J. Breese,
Chief of Station.

272. Release after cleaning or sorting.—When the violation may be corrected by cleaning or sorting and there is reasonable assurance that the cleaning or sorting process may be successful, permission to do this under the supervision of the station may be granted, provided there has been no abuse of this privilege in the past on the part of the shipper or the importer or both. Sorting may be carried out by setting aside without opening the containers certain units that are damaged or inferior from others that are sound, or the contents of the bags, barrels, or other packages may be emptied and cleaned or sorted. In any case before the consent of the station is given to such reconditioning, the importer should be informed of the manner in which the rejections may be utilized. In no case will reshipment of the rejections be permitted, except in those instances where the goods are entered for warehouse and are sorted without breaking the original packages. Except under special circumstances, only one cleaning or sorting will be permitted, and if the goods still remain unsatisfactory, the cleaned portion may be reshipped or utilized under proper guaranties for purposes not in violation of the Food and Drugs Act. The following is an example of the statement to the collector when cleaning is permitted:

12/16/18. STATEMENT TO COLLECTOR OF CUSTOMS.

The importer has appeared and requested permission to clean this shipment so that it will meet the requirements of the U. S. P. There will be no objection on the part of this Department to the cleaning of the goods provided the entire shipment, both the cleaned portions and rejections, are held intact pending further examination and report upon the cleaned goods by this station.

(Signed) W. J. Breese,
Chief of Station.

After the shipment has been cleaned or sorted in a satisfactory manner as shown by an inspection and analysis of the cleaned or sorted goods, a supplementary statement is forwarded to the collector, releasing the acceptable

portion of the shipment, which should be described, and specifying the proper disposition of the rejections which are also described. The following is an example of a supplementary statement of this kind to the collector, which statement should be copied on the analytical report (C. 771-a), prepared in triplicate, and the usual copies forwarded to the district chief.

12/30/18. STATEMENT TO COLLECTOR OF CUSTOMS.

Supplementing our statement of December 16, we beg to report that the cleaning of this shipment has been completed, and examination of the cleaned goods has shown them to be satisfactory for entry. There will be no further objection on the part of this Department to the release of the cleaned portion contained in 45 bags weighing 4,560 pounds, providing the rejections contained in 5 bags weighing 430 pounds are destroyed under customs supervision.

Port No.: *N. Y. 76500.*
Label: *Aconite root.*
Consignee: *John Doe.*
Steamer: *Minnitonka, 12/7/18.*
Entry: *6580.*
Marks: *G. S. F. 1/50.*

Respectfully,
W. J. BREESE,
Chief, Food and Drug Inspection Station.

273. Cleaning at other than port of entry.—Cleaning or sorting should be done at the port of entry. Under certain conditions transfer to another port is permissible. If the importer makes suitable request that the goods be cleaned by the ultimate consignee at another port, a statement of violation should be made to the collector of customs, mentioning the request and advising that the station will not object to the forwarding of the goods under carrier's special manifest consigned to the collector at the port where cleaning will be done, final action to be taken by such collector after submitting a sample of the cleaned goods to the station located at that port for an opinion as to whether the goods have been put in condition suitable for release. The collector at the port of entry will forward full information to the second collector, and the chief of the station to the chief of the second station, who, in turn, should send to the first station a copy of his recommendation to the collector as to final action after cleaning has been accomplished.

If a request for transfer under the exact conditions outlined in paragraph 272 is received, in general a favorable recommendation should be made to the collector. If, however, the station chief has reason to believe that there are circumstances which will render cleaning or supervision less effective at the second port, he should take up the matter by wire with the second station, either directly or, if it seems advisable, through the district chief. The station chief should do this before making recommendation to the collector, and should be governed in his recommendation by the information obtained.

In most instances the second station, after transfer of the shipment, will be concerned only with making such inspection and examination of the cleaned goods and such recommendation to the second collector as are incident to the conditions of release originally imposed. If, however, any circumstances arise which make it seem desirable that the original conditions be modified or changed, the second station should make such recommendation to the second collector only after suitable consultation and agreement with the first station.

Goods are sometimes distributed by the importer before initial action is taken and he requests that he be allowed to clean at the point to which distributed. This may be allowed if this point is so located that a second station can readily supervise the cleaning and examine a sample of the cleaned

goods. In such cases the station at port of entry should advise the second station fully, and request that the results of its inspection and examination be fully reported in order that final recommendation may be made at the port of entry. The import number assigned to the shipment should not be changed by the second station.

Recommendation should not be made that cleaning be allowed at the point to which the goods have been forwarded unless it has been learned that the second station can positively identify the goods, and that they are so located that it can maintain the necessary supervision without any unusual expenditure of time and effort. Such distribution of goods should be discouraged.

274. Release for restricted use by designated firm.—Whenever relabeling alone is unlikely to prevent the illegitimate use of the importation, certain additional conditions to release may be imposed, and these should be clearly set forth in the statement to the collector of customs. Certain kinds of drugs not of standard quality which can not be made so by any practicable process of reconditioning, and drugs falsely invoiced or branded that are notoriously used as substitutes for the genuine product are sometimes released after proper labeling, and on condition that the name of the purchasers and the purpose for which the goods will be used are furnished to the station. A release of this kind should be granted only after evidence has been furnished by the importer to the chief of the station that the purchasers are fully cognizant of the nature of the goods. The following is an example of the statement sent to the collector under such circumstances (see also S. R. A. Chem. 23, items 274–5) :

4/17/18. STATEMENT TO COLLECTOR OF CUSTOMS.

The importers have requested permission to secure the release of this importation for the use of the Richard Roe Mfg. Co. in the preparation called "Roe's Liver Pills." There will be no objection on the part of this Department to the release of the merchandise for the above specified purpose, provided that satisfactory guaranties are furnished to your office that the merchandise will be only so used, and provided further that each of the packages contained in the importation is plainly and conspicuously marked "Aloes—Not U. S. P.—Contains Excessive Moisture, Ash, and Water-Soluble Matter," and that a written statement from the Richard Roe Mfg. Co. is produced showing that they are aware of the nature of the goods.

This action is being taken without prejudice to future decisions in similar instances.

(Signed) W. J. Breese,
Chief of Station.

Another form of conditional release to the collector is employed when shipments found to be in violation of the Act are to be utilized for industrial purposes. Unless the goods are denatured, such releases should be granted only on condition that the name of the purchasers and the purpose for which they will be used are furnished to the station. The following statement to the collector illustrates this form of release:

12/30/18. STATEMENT TO COLLECTOR OF CUSTOMS.

The importers have appeared and request permission to dispose of this shipment to the Roe Ink Company, New York City, which will utilize the entire importation in the manufacture of mucilage. There will be no objection on the part of this Department to such disposition of the importation, provided satisfactory guarantees are furnished to your office that the entire shipment will be utilized in the manner stated.

(Signed) W. J. Breese,
Chief of Station.

275. Release after denaturing.—Importations suitable only for industrial purposes but which may be improperly used as foods or drugs must be dena-

tured if they can not be disposed of under specific conditions similar to those mentioned in paragraph 274. Articles 401, 402, and 462, Customs Regulations, 1915, as well as Regulation 34, F. I. D. 34, 93, S. R. A. Chem. 7 (item 19), 12 (item 102), 17 (item 171), and 18 (item 192) deal with such products.

ART. 401, C. R., 1915. *Denaturing.*—The following oils—birch tar, cajeput, coconut, cod, cod liver, cottonseed, croton, ichthyol, jugliandium, palm, palm kernel, perilla, soya bean, and olive oil—will be admitted free of duty when imported for mechanical or manufacturing purposes if denatured abroad, or while in customs custody after importation, in such manner as to render them unfit for use as food.

Each cask or package of oil claimed to have been denatured before importation must be sampled and tested by the appraiser.

Oils imported for mechanical or manufacturing purposes may be denatured under customs supervision at the request and expense of the importer by one of the following formulas to be selected by the importer:

To 100 gallons of the oil to be denatured add any of the following substances:

(*a*) Three gallons rosin oil, preferably second or third runs.
(*b*) Three gallons refined destructively distilled wood turpentine, boiling not lower than 160° C.
(*c*) Fifteen pounds caustic soda.
(*d*) One-fourth gallon pyridin.
(*e*) One-half gallon creosote.
(*f*) Four gallons aniline oil.
(*g*) Six gallons dark-colored oleic acid.
(*h*) Six ounces oleoresin capsicum.
(*i*) Twelve ounces oil rosemary, full strength, to 50 gallons.
(*j*) Not less than 2 per cent of pine tar.
(*k*) One part by volume of sulphuric (66 Baumé) acid to 99 parts oil, and the mixture allowed to stand at least 24 hours before being released.

The Department will from time to time prescribe additional formulas, and will consider any formula for special denaturation that may be submitted by any manufacturer.

Article 402, C. R., 1915, relates to the form of affidavit furnished by the importer to show that the goods are imported solely for mechanical or manufacturing purposes and that they are permanently unfit for food purposes. Attention is called to the following extract from Article 462, C. R., 1915:

Shipments of substances ordinarily used as foods or drugs, intended for technical purposes, must be accompanied by a declaration stating that fact. If the Secretary of Agriculture shall so recommend, any such substance may be required to be denatured under supervision of that Department.

The following is an example of the statement to be forwarded to the collector in such instances:

1/11/19. STATEMENT TO COLLECTOR OF CUSTOMS.

Importers have appeared and requested permission to secure the release of this importation for industrial purposes. There is no objection on the part of this Department to the release of these goods, provided the contents of each of the barrels is denatured, as provided in item 192, Service and Regulatory Announcements, Chem. 18.

(Signed) W. J. BREESE.
Chief of Station.

276. Exportation of shipments offered for import.—If it appears at the hearing that the importer desires to reship the goods beyond the jurisdiction of the United States, the chief of the station is authorized to report

the matter directly to the collector of customs. Reshipment of the goods also may be required as provided in Regulation 38, section 11 of the Act, if the adulteration or misbranding is of a gross nature or can not be corrected by cleaning, sorting, or relabeling, if the product may be dangerous to the health of the people of the United States, or if the privilege of cleaning, sorting, or relabeling has been abused by the importer or shipper with respect to previous shipments of similar merchandise. The following are examples of the form in which such cases are reported to the collector:

12/30/18. STATEMENT TO COLLECTOR OF CUSTOMS.

The importers have appeared and request permission to reship these goods beyond the jurisdiction of the United States. Such disposition of the merchandise will be satisfactory to this Department.

(Signed) W. J. BREESE,
Chief of Station.

11/29/19. STATEMENT TO COLLECTOR OF CUSTOMS.

The importers have appeared at this office, but have been unable to produce any evidence which would tend to show any error in the findings of this laboratory. The shipment consists of Rangoon beans containing a cyanogenetic glucoside which may be dangerous to the health of the people of the United States. The shipment should, therefore, be refused entry as provided in section 11 of the Food and Drugs Act, and should be reshipped beyond the jurisdiction of the United States.

(Signed) W. J. BREESE,
Chief of Station.

After a statement providing for the reshipment of such importations is forwarded to the collector of customs, the merchandise is reshipped under customs supervision and under conditions prescribed by the collector's office.

ART. 475, C. R., 1915. *Rejected goods.*—Liquidation of all entries of goods directed to be held pending examination by a representative of the Department of Agriculture will be suspended until it shall be ascertained whether or not delivery is to be refused under the law.

Entries covering goods which are exported or destroyed under these regulations will be liquidated free of duty as a "nonimportation," and the estimated duties will be refunded as an excess of deposits (T. D. 24254; T. D. 33594, Abst. 32995).

APPEALS.

277. Appeal to district chief.—If dissatisfied with the decision of the station chief, the importer may appeal from such decision to the chief of the district. If the importer at the hearing does not make decision as to the disposition which he will make of the goods, or expresses dissatisfaction with the ruling made, indicating that he may appeal, the following form (C. 778) is often used to bring about definite action and to hasten the settlement of the case:

Lab. No. *NY 75722.*

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF CHEMISTRY.

New York, Oct. 26, 1918.

Messrs. John Smith & Co.,
100 William Street, New York, N. Y.

SIRS: Consideration having been given to the results of examination of the shipment described below and to the evidence submitted at a hearing accorded you, the following decision is rendered:

A large representative sample of this shipment has been examined and further analysis of the merchandise is therefore regarded as unealled for. The goods have been found to contain an added poisonous or deleterious substance, namely, zinc, which may render the article injurious to health, and it will, therefore, be necessary for you to reexport the goods beyond the jurisdiction of the United States as provided in section 11 of the Food and Drugs Act. Release of the merchandise for use in the United States can be permitted only on condition that the goods be denatured so as to render them unsuitable for food purposes, or on condition that the goods be disposed of solely for industrial purposes after information as to the name of the purchaser and the use to which they will be applied has been furnished to this office.

DESCRIPTION OF SHIPMENT.

Substance: *Albumen.*
Consignee: *Messrs. John Smith & Co.* Entry No. *W. H. B. 20510.*
Steamer: *Toba Maru.* Entered *10/9/18.*
Marks and numbers: *H. A.*
F. K. C.
New York 1/100 100 cases.
Consular invoice: *Shanghai. 1926. July 3/18.*

This decision will be forwarded to the Collector of Customs for final disposition of the shipment unless an appeal to the Chief of the *Eastern* Food and Drug Inspection District is addressed to this office on or before *October 31, 1918.*

Respectfully,

W. J. BREESE,
Chief, Food and Drug Inspection Station.

C. 778.—Importer—Statement of Violation.

When the importer appeals, a statement of violation should be sent to the collector, indicating that the importer has appealed from the decision of the station. A second statement to the collector should be made when the decision of the district is received. If there is reason to believe that the decision of the district will be known within approximately 3 days, statement to the collector may be omitted, pending such decision.

While it is expected that the importer will present, within a few days after the hearing, such objections as he may wish to make, an appeal to the district may be made at any time within the 3 months allowed by the law for final disposition of the shipment.

The importer should transmit to the station a statement in writing, preferably in triplicate, indicating his desire to appeal to the district, and enumerating the facts on which he bases his request for reconsideration of the matter. The station should forward, with the appeal, the analytical report and a statement in writing, giving full particulars regarding the status of the case, and the inspection and analytical evidence. This statement should refer also to previous cases of similar nature, and copies of any other correspondence regarding the case should be enclosed. All such data should be forwarded in duplicate. A sample should be sent whenever any question regarding the label or other printed matter used is involved, and whenever there is a possibility that examination by some special laboratory will be necessary. In general no analyses are made, either by the district or in Washington, except when an examination requiring special facilities which the stations lack is involved. Consequently, when appeal is made the stations should make reexamination of the shipment if there is any doubt as to the correctness or completeness of the first analysis, or if there is any reason to believe that the sample taken may not have been representative.

278. Appeal to Chief of Bureau.—The importer may appeal from the decision of the district chief to the Chief of Bureau. All such appeals should be made by the importer through the station concerned. On receiving the request from the station the district will be in a position to forward at once copies of all correspondence previously received, with such summary of the case as is necessary to supply all facts.

279. Appeal to Secretary of Agriculture.—In turn, the importer may appeal from the decision of the Chief of the Bureau to the Secretary. When appeal is made to the Secretary, he is furnished by the Bureau with all records, together with a summary. The Solicitor of the Department usually considers such appeals with the Secretary. Occasionally, the ambassador or minister of a foreign country in Washington, through the State Department, presents an appeal to the Secretary, either at the request of his Government, or at the request of the foreign manufacturer or his representative in this country.

280. Personal hearing granted upon appeal.—When appeal is made, the district chief, the Chief of the Bureau, or the Secretary will grant on request a personal hearing to the importer, or his representative, if there seem to be reasonable grounds for such request.

281. Notify collector of result of appeal.—When the station receives the decision made as the result of an appeal, an additional statement regarding disposition of the goods and embodying the decision should be transmitted to the collector of customs. This statement should be copied on the analytical report (C. 771–a) in triplicate, forwarding the usual copies to the district and to the Chief of the Bureau.

FINAL DISPOSITION OF SHIPMENTS.

282. Collector's final report on disposition of shipment.—The station should send to the district two copies (one for forwarding to the Bureau) of the statement of final action taken by the collector of customs on each detained shipment. This statement, in triplicate, is furnished by the collector, in accordance with T. D. 37877, January 18, 1919.

(T. D. 37877.)

Food and Drugs.

Collectors of customs instructed to report final dispositions of detained shipments—T. D. 30582 of April 30, 1910, amended.

TREASURY DEPARTMENT, *January 18, 1919.*

To collectors and other officers of customs:

In all cases where goods are detained under the provisions of the Food and Drugs Act of June 30, 1906, collectors will furnish to the chief of the food and drug inspection station concerned a statement in triplicate of the final disposition of each detained shipment.

T. D. 30582 is amended accordingly.

J. H. MOYLE, *Assistant Secretary.*

The nature of the final action, with date, should be entered on each analytical report covering a detained shipment. This may conveniently be done by means of suitable rubber stamps.

VIOLATION OF BOND.

283. Collector reports to Secretary of Treasury.—Treasury regulations regarding delivery under bond, based on section 11 of the Food and Drugs Act, are given in Article 473 of Customs Regulations, 1915, as follows:

ART. 473. *Delivery under bond.*[1]—Goods which have been sampled may be delivered to the consignee pending examination and decision in the matter on the execution of a bond on Customs Form 3385 or 3387 for the amount of the full invoice value of such goods, together with the duty thereon, and on refusal of the consignee to return such goods for any cause to the custody of the collector when demanded, for the purpose of excluding them from the country or for any other purpose, said consignee shall forfeit the full amount of bond (Act June 30, 1906, sec. 11; Act April 26, 1910, sec. 11).

When it is deemed that the importer has violated the conditions of the penal bond given at time of entry, and he makes request for settlement of the case, the collector of customs submits all papers and a summary of all pertinent facts, with recommendation, to the Secretary of the Treasury for decision.

284. Department of Agriculture makes recommendation.—The Secretary of the Treasury, before making decision, customarily transmits to the Secretary of Agriculture, for recommendation as to action, all the papers submitted by the collector. The Secretary bases his recommendation upon the papers transmitted and upon any further information which may be at hand in the Bureau, after submitting the matter to the Solicitor. Similar cases involving the same importer are also considered.

285. Station should report all facts regarding violation of bond.—In order that the Secretary may have full information at hand, the station concerned should forward to the district, in duplicate, a letter giving full particulars regarding the case, including a recommendation as to the action which should be taken. One copy should be transmitted to the Chief of the Bureau at once by the district chief, with such comment as he may desire to make. This letter should be forwarded as soon as the station is aware that the matter will be referred to the Secretary of the Treasury by the collector, who usually consults the station before making his recommendation. Unless such a letter is forwarded the Chief of the Bureau will often not have the necessary information and must make special inquiry of the station concerned, thereby delaying the Secretary's recommendation.

The following information is always necessary: The date of entry; the date when samples were taken and the dates when notice of sampling and detention were sent the importer; and the date or dates when the importer distributed or disposed of the whole or a part of the shipment. It is equally important to know whether the importer has made any adequate attempt to obtain return of the goods distributed, and to what extent return of the goods was accomplished. The action of the importer in similar instances should be referred to.

286. Importers specially notified by collector in New York of liability under bond covering certain wharf goods.—The collector at the port of New York, with the approval of the Secretary of the Treasury, has posted notices for the benefit of importers to the effect that samples for the Department of Agriculture are taken from *all* shipments of chestnuts, marrons, figs, olives, and tomato pastes; that no delivery should be made by importers until the goods have finally been released, and that failure to comply with the requirements will make them liable for the full penalties of the redelivery bond.

287. Bureau of Chemistry notified of action taken.—The Secretary of the Treasury furnishes this Department with a copy of his instructions to the collector regarding settlement of the case. A copy of this letter and of the letter containing the recommendation of this Department are made and forwarded by the Chief of the Bureau for the information of the district and station concerned.

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[1] Paragraph 243 gives the revised forms of bonds.

REPORT OF IMPORT WORK ACCOMPLISHED.

288. Monthly report by station.—A tabulated monthly report showing the number of import food and drug shipments inspected, samples examined, and hearings held should be made on the Branch Laboratory Monthly Report (C. 461), which provides also for similar report on interstate and other samples. This report should be forwarded by the chief of the station, in duplicate, at the end of each month to the district chief, who in turn should transmit one of the copies to the Chief of the Bureau.

PROCEDURE AT NONLABORATORY PORTS.

289. Purpose of nonlaboratory port inspection.—The inspection of imported foods and drugs is carried on not only at ports where laboratories are located but also at all ports within the territory covered by each station. This is necessary not only to assure uniform action concerning such importations, but also to prevent the importation of merchandise which the importers might believe would be refused entry at laboratory ports.

290. Treasury orders inaugurating inspection.—Treasury Decision 31251, amending Treasury Decision 30201, refers to the inauguration of inspection at nonlaboratory ports, and reads in part as follows:

TREASURY DEPARTMENT, *January 28, 1911.*

To customs officers and others concerned:

The Secretary of Agriculture being desirous of inaugurating at the nonlaboratory ports a systematic inspection of all articles covered by the Food and Drugs Act of June 30, 1906, the chief officers of customs at the ports named in the list appended hereto are instructed to send to the respective branch laboratories under which the ports are grouped in that list such samples of such articles covered by the said Act as may be requested of them by the Secretary of Agriculture, by the chairman or any member of the board of food and drug inspection, chiefs or acting chiefs of the respective branch laboratories, or by the Chief or Acting Chief of the Bureau of Chemistry in Washington, or as may be requested personally by a properly accredited food and drug inspector of the Bureau of Chemistry.

Goods which have been sampled will be delivered to the consignee only on the execution of the bond provided for in Article 1029 of the Customs Regulations of 1908, under section 11 of the said Act.

If the sample is found to be not in violation of the law the chief of the laboratory will notify the collector that detention under the Food and Drugs Act is no longer required. If the sample is found to be in violation of the law the chief of the laboratory will advise the collector as to the proper action to be taken under any precedent that may have been established in such cases. If there be no established precedent the question will be decided at Washington by the Department of Agriculture and the Treasury Department.

All notices will be given and hearings afforded that are provided for in the existing regulations.

The attention of collectors is directed to Articles 1015 to 1033, both inclusive, of the Customs Regulations of 1908.

FRANKLIN MACVEAGH, *Secretary.*

Articles 465 and 472, Customs Regulations, 1915, refer to this same matter.

ART. 465. *Laboratory districts and branch laboratories.*—The Secretary of Agriculture has established branch laboratories at several ports of entry for the examination of products subject to the Food and Drugs Act of June 30, 1906, and for the collection of specimens of products subject to the Insecticide Act of April 26, 1910. A list of ports at which branch laboratories are located, and also of the ports located in the districts under each laboratory will be published from time to time in the Tresury Decisions. Ports at which branch laboratories are located will be known as laboratory ports; other ports will be known as nonlaboratory ports. (T. D. 30201, 31251, 31585, 34536.)

ART. 472. *Immediate-transportation shipments.*—Samples required from shipments entered under the Immediate-Transportation Act will be taken at the port of destination, and not at the port of first arrival. (T. D. 24649.)

291. Ports included in territory of Bureau stations.—Baltimore (formerly Washington) Food and Drug Inspection Station: All ports in the customs districts of Maryland (No. 13) and Virginia (No. 14).

Boston Food and Drug Inspection Station: All ports in the customs districts of Maine and New Hampshire (No. 1), Vermont (No. 2), Massachusetts (No. 4), and Rhode Island (No. 5).

Buffalo Food and Drug Inspection Station: All ports in the customs districts of Buffalo (No. 9), Rochester (No. 8), and Pittsburgh (No. 12), and Erie, Pa., in the customs district of Ohio (No. 41).

Chicago Food and Drug Inspection Station: All ports in the customs districts of Chicago (No. 39), Wisconsin (No. 37), and Michigan (No. 38).

Cincinnati Food and Drug Inspection Station: All ports in the customs districts of Ohio (No. 41), except Erie, Pa., Indiana (No. 40), Kentucky (No. 42), and Tennessee (No. 43).

Denver Food and Drug Inspection Station: All ports in the customs districts of Colorado (No. 47), Arizona (No. 26), and Utah and Nevada (No. 48).

New Orleans Food and Drug Inspection Station: All ports in the customs districts of New Orleans (No. 20), Mobile (No. 19), Sabine (No. 21), Galveston (No. 22), San Antonio (No. 23), and El Paso (No. 24).

New York Food and Drug Inspection Station: All ports in the customs districts of New York (No. 10), St. Lawrence (No. 7), and Connecticut (No. 6).

Porto Rico Food and Drug Inspection Station: All ports in the customs district of Porto Rico (No. 49).

Philadelphia Food and Drug Inspection Station: All ports in the customs district of Philadelphia (No. 11).

St. Louis Food and Drug Inspection Station: All ports in the customs district of St. Louis (No. 45).

St. Paul Food and Drug Inspection Station: All ports in the customs districts of Minnesota (No. 35), Iowa (No. 44), Duluth and Superior (No. 36), Dakota (No. 34), and Omaha (No. 46).

San Francisco Food and Drug Inspection Station: All ports in the customs districts of San Francisco (No. 28) and Southern California (No. 27).

Savannah Food and Drug Inspection Station: All ports in the customs districts of Georgia (No. 17), Florida (No. 18), North Carolina (No. 15), and South Carolina (No. 16).

Seattle Food and Drug Inspection Station: All ports in the customs districts of Washington (No. 30), Oregon (No. 29), and Montana and Idaho (No. 33).

A complete list of customs districts headquarters and ports of entry is given in T. D. 37452, Dec. 24, 1917.

292. Request for samples.—Upon arrival of the invoice, or upon receipt of suitable information regarding a shipment en route, the collector, or other customs official in charge at nonlaboratory ports, immediately informs the chief of the station concerned, in accordance with Article 477 of Customs Regulations, 1915, as follows:

ART. 477. *Notice of receipt of invoices.*—Upon the receipt of an invoice covering foods, drugs, insecticides, fungicides, lead arsenates, or Paris greens at nonlaboratory ports the collector of customs will immediately notify the chemist in charge at the laboratory port of the district and attach to such notice the declaration on Consular Form 198 or 218. If no invoice be received prior to the entry of the merchandise or the arrival at the port of destination of the immediate-transportation papers therefor, the collector will give such notice upon receipt of the immediate-transportation papers or upon the entry of the merchandise, as the case may be.

The representatives of the Department of Agriculture will at once notify the collector of customs at the port of entry whether or not samples are desired. If samples are desired, the collector will, immediately upon the entry of the merchandise, cause the appraiser to draw and forward samples.

In all other respects the procedure at nonlaboratory ports will conform to that at the laboratory ports.

The station chief should furnish collectors with a supply of the blue card, Notice from Collector—Nonlaboratory Ports (C. 755), which is as follows:

PORT OF_____, _____, 191__.

SIR:

Certain merchandise has been entered for immediate transportation in bond to this port from the port of_____ _____ or entered on pro forma invoice.

Substance _____
I. T. Entry No. _____
Marks and numbers_____
Shipper _____
Consignee _____
Remarks _____

_____,
Collector.

C. 755—Notice from Collector—Nonlaboratory Ports.

If the chief of the station is satisfied that no examination is necessary, he mails to the customs official concerned a yellow card properly filled out, which authorizes release of the goods without further examination by the Bureau of Chemistry, as follows:

_____, 191__.

SIR:

Regarding the shipment described below, I desire to inform you that no samples are desired by this Department for analysis.

Substance_____
I. T. Entry No. _____, Marks and Nos. _____
Shipper_____
Consignee_____
Remarks: _____

Respectfully,
_____,
Chief of Station.

C. 757—Notice to Collector—Nonlaboratory Ports.

If the station chief desires to make examination of samples from the shipment, he makes request for such samples on the form provided for the purpose, Nonlaboratory ports—Request for samples (C. 783).

Lab. No. *Cn. 3459.*

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF CHEMISTRY.

Cincinnati, Ohio, Aug. 21, 1918.

Collector of Customs,
Port of Cleveland.

SIR: Under the provisions of the Food and Drugs Act, June 30, 1906, and T. D. 30201, I have to request that you forward, for inspection (*a 2-lb. composite from 5 bbls. range 1/50 and a 3-lb. composite from 8 bbls. range 1/75*) sample of the following described merchandise to *U. S. Food and Drug Inspection Station, 411 Government Building, Cincinnati, Ohio.*

Where samples are taken from bulk goods a complete statement of the label on the package should accompany each sample. Special note should be made of the declaration of any added substances.

DESCRIPTION OF SHIPMENT.

Substance: *Olives (bulk)—Green.*
Consignee: *John Doe.*
(Address) *Cleveland, Ohio.*
Steamer: *Cabo Cullers, Aug. 20, 1918.*
Marks and numbers: *W. E. C. 1/50 1/75.*
Consular invoice: *Seville, 112, 6/19/18.*
Place of production: *Spain.*
Entry No. *147, (Cleveland) I. T. No. 715.*
Entered *Aug. 20, 1918.*

Respectfully,
H. T. BAKER,
Chief, Food and Drug Inspection Station.

C. 783.—Nonlaboratory ports—Request for samples.

The samples forwarded by the collector should be accompanied by the Label for Samples form properly filled out, or, if the station chief and the collector prefer, the Imports Description of Sample form may be used for this purpose. The station chief should provide the collector with a supply of the forms to be used.

If samples from all shipments of any particular class of goods are desired, a general request to that effect may be sent to the collector, indicating the amount of sample which it will be necessary to send. If the collector is supplied with a list of all such goods, individual requests for samples from such shipments will be unnecessary.

293. Follow same general procedure as at laboratory ports.—Upon receipt of samples from nonlaboratory ports, the station chief makes examination, and releases or detains the shipment, following exactly the same procedure as in the case of shipments arriving at laboratory ports (paragraphs 253–288).

294. Minor variations in procedure to meet local conditions permissible.—The essential details of procedure must be the same at all laboratory and nonlaboratory ports, and it is desirable that the minor details also be uniform as far as is practicable. Some degree of freedom, however, is necessary for the most efficient carrying out of these details, as local conditions encountered at each port of entry by officers of the Bureau of Chemistry and by customs officials make necessary a mutual agreement as to the best procedure regarding the minor details.

DISPOSITION OF IMPORT SAMPLES.

295. Hold samples one month.—All samples should be held for one month. Adulterated or misbranded products should not be sold. The labels should be removed and filed with the case. Samples of value for future reference should be preserved.

296. Foods and drugs offered at customs sales must not be adulterated or misbranded.—In order to prevent the sale of goods which are in violation of the Food and Drugs Act, the station should make inspection of such articles before they are advertised for sale by the Treasury Department, to determine whether they are adulterated or misbranded (T. D. 30402, March 5, 1910).

Articles 802 to 822, Customs Regulations, 1915, refer to the disposition of unclaimed merchandise.

ART. 807, C. R., 1915. *Sale.*—Regular sales of unclaimed merchandise, and merchandise remaining in warehouse beyond 3 years, will be made as often as twice in every year, or oftener, at the discretion of the collector.

Before unclaimed merchandise shall be sold it must be appraised at the foreign market value at the date of exportation in the principal markets of the countries whence exported, including in the dutiable value all charges and expenses required by law to be added on entry.

Such merchandise shall also be appraised at its actual home-market value at the time and place of examination, making due allowance for depreciation or appreciation in such value since the date of exportation.

The quantity of mechandise in each lot appraised shall also be reported.

Before seized drugs, insecticides, seeds, plants, nursery stock, and other articles required to be inspected by the Department of Agriculture are advertised, they shall be inspected by a representative of the Department of Agriculture to ascertain whether or not they comply with the requirements of the law and the regulations of that Department.

All unclaimed and abandoned merchandise at ports of entry, including that subject to sale under sections 2975 and 2976 of the Revised Statutes, will be promptly reported to district headquarters for disposition (T. D. 30402 and 33557, par. 23).

297. Station's unused samples disposed of at customs sales.—Upon receipt from the customs officials of a notice of a sale of unclaimed goods, the station should transmit a letter to the customs official giving a list of the articles on hand which are to be disposed of by sale, and should at the proper time deliver the samples. Two copies of this letter are to be forwarded by the station to the Chief of the Bureau for the Department's information. The customs official should be furnished with as many copies of the list as he desires.

The customs officials will conduct the customary sale, and will forward to the chief of the station a statement of the articles sold and the expenses, if any, of sale, together with the proper vouchers, receipts, etc., and the net proceeds (in the form of a draft, money order, or check, drawn to the order of the Disbursing Clerk, Department of Agriculture). After checking papers to make sure they are correct, the chief of the station should forward them to the Chief of the Bureau for his approval and transmission to the Disbursing Clerk of the Department for deposit to credit of miscellaneous receipts.

298. Payment for samples.—For all samples taken, whether found to be in violation of the law or not, the Department pays the invoice price, cost of transportation, and duty (T. D. 26839).

When an importer presents a bill, the amount claimed is checked with the price as figured from the invoice and recorded on the Imports Description of Sample form, always taking care that previous payment for the sample has not been made. If the bill amounts to more than $1, it is submitted on a Form 5 voucher, and forwarded to the Chief of the Bureau, after being approved by the chief of the station, the Department sending a check to the importer direct. If the bill amounts to less than $1, it is paid by the chief of the station. These items are entered on his monthly expense account, in which way the chief of the station is reimbursed. The Imports Description of Sample form should be marked with the date of payment in the space provided for that purpose. A proper entry should also be made on the ruled Expenditure Record form (C. 145), which is recommended for keeping record of all expenditures incurred under letters of authorization.

Article 476, C. R., 1915, refers to payment for samples. It refers also to certain other expenses incident to examination of samples which are assessed by the Treasury Department against the importer or the Department of Agriculture, depending upon whether the merchandise is rejected or admitted.

ART. 476. *Expenses—Lien.*—Expenses for storage, cartage, and labor arising from the detention for inspection and analysis of goods admitted to entry will be borne by the Government, and bills therefor will be rendered to the Secretary of Agriculture; but all charges for storage, cartage, and labor on goods which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

The cost of samples and necessary express charges on them will be paid by the Department of Agriculture on the presentation of proper vouchers. Duty will be collected on samples, provided the importation is released.

(Act June 30, 1906, sec. 11; Act April 26, 1910, sec. 11. T. D. 25978, 26244. T. D. 34652, Abst. 36121. T. D. 26839, 34745.)

SPECIAL SAMPLES SENT TO BUREAU HEADQUARTERS.

299. Send complete information with samples.—When import samples are sent to the Bureau there should always be a letter transmitting them, stating the reason for sending, and giving the exact status of the shipment. The analytical report, if not already sent, should accompany the letter. A carbon copy of the letter and the Label for Samples slip (C. 794) should be attached to the sample. The original letter should be sent by mail. Seldom is any sample received where there can be but one reason for sending it. The need

of a letter is, therefore, obvious. No samples should be marked for the attention of any special laboratory. This can be sufficiently indicated in the body of the letter. Each sample should bear a sticker label, firmly attached, indicating clearly in ink or indelible pencil the port number.

If no action has been taken and no analysis made, the analytical report need not be sent, as the Label for Samples slip will give all the information which would be given on the analytical report. When no action has been taken, the letter should be marked "Rush," and the sample will then be given preference and a reply forwarded without unnecessary delay. When it seems advisable, replies indicating action will be sent by cable or telegraph if the station or district is distant from Washington.

300. Water samples.—As original analysis in nearly all cases is made in Washington, it is necessary to know whether the shipment has been released without prejudice or is being held pending instructions as to action. If information indicated in paragraph 299 is not given, examination and reply may be delayed. For sampling, see paragraph 251.

301. Sherley Amendment samples.—Information from all sources regarding the composition of the product should be sent with the sample to the Chief of the Bureau. This should include mention of published formulas given in available books of reference. Without this no adequate criticism is possible. The analytical report should indicate at least the presence or absence of substances commonly used for the purposes indicated on the label or other printed matter. Analytical reports should accompany printed matter. Samples from shipments held pending instructions as to action will be given immediate attention. If the formula is given, it should be checked at least qualitatively, if practicable. Deficiency in important ingredients is not uncommon. Inhibited drugs should be tested for whenever there seems to be any probability of their presence. Analysis of these samples can not be made in Washington except in those cases where analysis can not be made by the station or district and reference is necessary to a special laboratory having facilities for examination.

302. Crude drug samples.—It should be clearly indicated whether the sample is sent purely for information or for investigational purposes, or whether a shipment is being held pending instructions. Knowledge regarding the country where grown is often a factor which will be of assistance in identifying unusual or spurious products. A sample should be sent from each shipment of crude drugs which the station has not been able positively to identify.

303. Samples in appeals.—If appeal is made, in most cases a sample should be sent. If the shipment consists of several lots, this should be stated. The distinguishing marks should be given and the samples clearly marked accordingly (paragraph 277).

In cases of appeal there should be no question regarding the fairness of the sample or the analytical results on which detention is based (paragraphs 277, 252, and 255).

304. Resampling and reexamination.—It occasionally happens, particularly in the case of crude drugs, nuts, and other bulk goods, that the importer at the hearing claims that the goods are of merchantable quality and are not in violation of the Food and Drugs Act, indicating that the examination made is at fault or that the sample used is not representative. In all such cases, unless the claim is clearly without foundation, a check examination should be made, taking, if necessary, a new sample, from a reasonable number of packages, and one which will be representative of the shipment.

PART VIII.—EXAMINATION OF EXPORT FOODS.

305. Authority for examination and certification.—Samples of food products which are intended for export to foreign countries where chemical and physical tests are required are analyzed and certificates issued under authority conferred in the appropriation bill for the Department of Agriculture for the fiscal year 1916, Public 390, U. S. Statutes at Large, Volume 39, Part 1, page 1151. The law is as follows:

For investigating the character of the chemical and physical tests which are applied to American food products in foreign countries, and for inspecting the same before shipment when desired by the shippers or owners of these products intended for countries where chemical and physical tests are required before the said products are to be sold there: *Provided*, That hereafter no certificate of results of any such inspection shall issue unless the owner or his agent shall first pay to the Secretary of Agriculture, at a price to be determined and established by the Secretary, the actual cost of the inspection, the money received to be deposited in the Treasury of the United States as miscellaneous receipts; and for all necessary expenses in connection with such inspection and studies of methods of analysis in foreign countries.

Certificates will be issued only for products going to countries which require chemical or physical tests before they will allow entry. Certificates are not to be issued for other purposes, such as classification under foreign tariff laws. Certificates should not be issued for products which are in violation of the Food and Drugs Act, bearing in mind, however, that the last proviso of section 2 of the Food and Drugs Act is as follows:

Provided that no article shall be deemed misbranded or adulterated within the provisions of this Act when intended for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is intended to be shipped; but if said article shall be in fact sold or offered for sale for domestic use or consumption, then this proviso shall not exempt said article from the operation of any of the other provisions of this Act.

Attention is also called to Regulation 31, under the Food and Drugs Act, entitled Preparation of Food Products for Export, as follows:

(*a*) Food products intended for export may contain added substances not permitted in foods intended for interstate commerce, when the addition of such substances does not conflict with the laws of the countries to which the food products are to be exported and when such substances are added in accordance with the directions of the foreign purchaser or his agent.

(*b*) The exporter is not required to furnish evidence that goods have been prepared or packed in compliance with the laws of the foreign country to which said goods are intended to be shipped, but such shipment is made at his own risk.

(*c*) Food products for export under this regulation shall be kept separate and labeled to indicate that they are for export.

(*d*) If the products are not exported they shall not be allowed to enter interstate commerce.

306. Application of exporter.—Exporters desiring to have samples analyzed and certificates issued in accordance with the above authority should make application under oath for such inspection on the Application and Oath of Exporter form (C. 781).

307. Instructions for taking export samples.—Exporters should submit samples in duplicate, so that one sample may be retained in the laboratory for further examination or as evidence in the event of an appeal from the finding of the laboratory. The chief of a station may do the sampling when he has any reason to believe that the sample submitted by the exporter may not be representative of the shipment. The instructions regarding sampling which appear on the back of the application form (C. 781) should be complied with.

308. Issuing certificates.—After analysis has been made the facts developed by the analysis should be included in a form of certificate entitled Certificate of Inspection, Export (C. 785). Blank forms, containing the seal of the Department, are furnished to the chiefs of districts. The certificate should be countersigned by the chief of district. No statement should be made indicating that the product examined complies with the provisions of the Federal Food and Drugs Act.

309. Charge cost of analysis.—The law provides that the cost of the analysis of samples of food shipments for export shall be charged to the person requesting the examination, and the cost is to be determined by the Secretary of Agriculture. The cost of the analysis should be collected before the certificate is issued. When applications for certificates are received, a letter or telegram should be addressed to the Chief of the Bureau, stating the facts and advising the actual cost of the analysis, including the time and material necessary for packing and preparing the sample, making the analysis and issuing the certificate. The matter will be referred to the Secretary of Agriculture for his approval, and the station promptly advised of his action.

Remittances are to be drawn to the order of the Disbursing Clerk of the Department of Agriculture, but forwarded to the Chief of the Bureau of Chemistry for transmission.

After the cost of analysis of a particular product has been approved by the Secretary of Agriculture, that cost may be charged for subsequent samples of the same product unless a different analysis is required or the cost has materially changed in the meantime, in which case a recommendation should be sent to the Bureau, fixing a price to cover the actual cost. For instance, if the Secretary approves a price of $5 for the analysis of a sample of flour, other samples of flour may be examined at the same price without further reference to the Bureau, so long as the factors of cost remain approximately the same. The cost of the examination must be collected whether the certificate is favorable or unfavorable to the product examined.

PART IX.—WORK FOR OTHER DEPARTMENTS.

310. Chemical work for other departments upon request.—The Agricultural Appropriation Act carries a provision authorizing the Bureau of Chemistry to do chemical work for other departments of the Government needing chemical investigations, whose heads request the Secretary of Agriculture for such assistance. Work of this nature usually originates in the departments in Washington, and is handled directly through the heads of the departments concerned. The Bureau of Chemistry also maintains cooperative relations with other bureaus within the Department; work of this nature is generally arranged for by the Bureau chiefs with the approval of the Secretary. The field stations of the Bureau of Chemistry are more or less frequently called upon for assistance by the field branches of other Government agencies, and it is the policy of the Bureau that all stations should cooperate freely with other Government agencies. Where such cooperation necessitates the expenditure of an appreciable amount of time or money, however, the approval of the district chief and the Chief of the Bureau should be obtained before the work is undertaken.

311. Reports of work for other departments.—Except in unusual cases or where a request for such reports is made by the Chief of the Bureau, it is unnecessary for the districts to furnish the Bureau with separate copies of reports made to other agencies of the Government. All work undertaken at the request of other departments should be reported, however, in the district monthly progress reports, and a brief summary of the results obtained should also be included in such reports. After the close of each fiscal year, the number of samples examined and the cost of all work for other departments for the year should be reported to the Chief of the Bureau.

PART X.—ADMINISTRATIVE REGULATIONS AND PROVISIONS.

312. Knowledge of administrative and fiscal regulations essential.—It is the purpose of this manual to point out a few fundamental requirements regarding the administrative regulations for the transaction of the business of the Department, and to indicate where complete detailed information may be obtained.

A thorough knowledge of the Department and Bureau regulations and policies regarding appointments, transfers, promotions, leave, property, fiscal, and administrative regulations increases the efficiency of any employee. Many of the regulations are based upon laws, or upon regulations of the Treasury Department, which prescribe the way the business of the Government shall be transacted. Departure from these regulations leads to difficulties in the settlement of accounts and the transaction of Government business, and causes unnecessary work.

313. Personnel.—All permanent appointments in the Bureau of Chemistry are made from certificates of eligibles secured from the Civil Service Commission. Certificates should be obtained through the Chief of the Bureau for all classes of employees except clerks, stenographers, typewriters, bookkeepers, minor clerks, messengers, messenger boys, janitors, skilled laborers, mechanics, unskilled laborers, and charwomen, which may be obtained from the local secretary of the Civil Service Commission. When a vacancy occurs at a station in any of the positions named above, the chief of the station should secure from the local Civil Service secretary a certificate of eligibles, make his selection from these eligibles, and then recommend to the district chief the appointment of the person selected for the place. He should secure the approval of the local Civil Service secretary of his selection, and forward with his recommendation complete information regarding the age, education, previous experience, and qualifications of the person selected. This information, together with a recommendation for appointment, may be forwarded by wire when the matter is urgent, and a formal recommendation approved by the local Civil Service secretary later forwarded by mail. No person should be put to work until notice has been received that the appointment has been approved by the Secretary of Agriculture.

It is not necessary for a station chief to obtain prior authority from the Chief of the Bureau to request a certificate from the local secretary to fill a vacancy caused by resignation or termination of appointment. If it is desired to secure an additional employee, that is, make an addition to the staff, the prior consent of the Chief of the Bureau through the district chief should be obtained. When inspectors or scientific employees are to be appointed, a request for such appointment should be forwarded to the Chief of the Bureau by the district chief.

Questions involving the transfers of employees from one department to another, or from another bureau of this Department, should be taken up with the office of the Chief of the Bureau by the district chief. It is the policy to fill vacancies by original appointment, except in cases where a person to be transferred from another bureau has exceptional or peculiar qualifications

which render him better fitted for the place than anyone who might be certified by the Civil Service Commission. Such transfer should be approved by the department or bureau from which the transfer is to be made.

Detailed instructions for handling field appointments are given in the manual, Administrative Regulations of the Department of Agriculture, revised to August 1, 1918.

314. Promotion of scientific employees is considered twice each year, just previous to July 1 and January 1. Under a recent ruling of the Secretary of Agriculture it is only in very exceptional cases that consideration will be given to recommendations for promotions of scientific employees at other than semiannual periods. At the regular periods the Chief of the Bureau calls for recommendations from the heads of laboratories and districts. These recommendations are referred to a Bureau committee on scientific promotions, appointed by the Chief of the Bureau. This committee considers data regarding the education, training, previous experience, and efficiency of every scientific employee in the Bureau. The merits of those scientific employees who have not been recommended for promotion by their immediate superiors are considered by the committee, as well as the merits of those employees who have been so recommended for promotion. By this method the record of every scientific employee is carefully considered twice each year.

The committee is furnished with a statement of approximately the available funds of the Bureau for promotions. It is the duty of the committee thereafter to recommend to the Chief of the Bureau the scientific employees who, in the opinion of the committee, should receive the promotions. If the number is to be limited to 40, for instance, it is the duty of the committee to select the 40 scientific employees who are most deserving of promotion at that time.

The committee acts only in an advisory capacity to the Chief of the Bureau. He retains his authority to reject or modify any recommendation of the committee. The list of employees selected for promotion, as amended by the Chief of the Bureau, is submitted to the Secretary of Agriculture. No promotion becomes effective until approved by the Secretary of Agriculture.

315. Promotion of employees on the statutory roll is handled in a somewhat different manner, owing to limitations of that roll. These promotions are made as vacancies occur, or as new positions become available, and are not confined to stated periods. All promotions on the statutory roll, and of employees usually paid on that roll, however, are made from efficiency registers which are prepared June 1 and December 1 of each year. Reports regarding the efficiency of all such employees are made for the previous 6 months by the person immediately in charge of their work.

A committee on statutory promotions considers the efficiency reports, and lists the names of the employees of each grade in the order in which in the opinion of the committee they should be promoted. For instance, all $1,200 clerks are placed in a definite order; the clerk who in the opinion of the committee should receive the first promotion is rated as number one; the clerk who should receive the second promotion is rated as number two; the next clerk is rated as number three on the register; and so on down the list, until all the clerks are listed in numerical order. After this register is made up and approved it governs all promotions until the next register is made up. A copy of the register is filed in the office of the Secretary of Agriculture. No departure from the register as established can be made except with the approval of the Chief of the Bureau and the Secretary of Agriculture upon a statement of facts which, in the opinion of the Secretary of Agriculture, would justify a departure from the register. Such departures are seldom made.

Reference is made to the following manuals for more detailed information regarding personnel matters: Civil Service Act, Rules and Executive Orders, issued by the United States Civil Service Commission, and Administrative Regulations of the United States Department of Agriculture.

316. Fiscal.—No expenditures should be made until formal authority in writing has been obtained. Authority for expenses is issued in one of 4 forms: (1) A formal *letter of authorization* which specifies the purpose for which expenses may be incurred, and designates the amount which may be spent for the purposes stated. A letter of authorization is used in general for travel expenses, for miscellaneous station expenses which can not be obtained on purchase orders, and the purchase of samples in the field, and all other expenditures except those covered by purchase orders, leases, or contracts. In incurring expenses under a letter of authorization care must be exercised to see that the particular expenditure is covered by the letter of authorization, and that the total expenses incurred do not exceed the total amount authorized. Necessary increases in letters of authorization should be requested in sufficient time to be acted upon before the amount of the letter is expended. (2) *A purchase order or requisition* is a formal order issued by the Bureau Supply Office, which authorizes the purchase of specific articles at prices stated on the order. (3) *Rent of buildings* is covered by formal lease issued by the Department except in limited cases for temporary periods which may be covered by letters of authorization. (4) As a rule, purchases involving the expenditure of more than $1,000 are covered by *formal contracts*, prepared by the Office of the Solicitor

Accurate, complete, and detailed records of all expenditures and fiscal transactions should be kept by every person incurring expense under appropriations in accordance with the system outlined by the Bureau in instructions issued from time to time. The keeping of complete fiscal records is important in all fiscal transactions, but it is doubly important in the fiscal transactions of the Government.

Reimbursement accounts for expenditures incurred by employees of the Bureau should be made out and submitted promptly to the Bureau after the end of each month. Care in filling out the vouchers in accordance with the regulations and directions will greatly facilitate the payment of accounts. Where it becomes necessary to vary from the regulations in any particular in an expense account, a clear, concise explanation of the reasons for the variations should be given in a letter and attached to the account. When this is not done it is necessary to return the account for such explanation. The requirements for filling out reimbursement accounts are fixed to a large extent by the Treasury Department, and no official of the Department of Agriculture has authority to vary the requirements. It is highly important, therefore, that all the requirements be complied with literally, in so far as it is possible to do so, and if in an emergency it becomes necessary to depart from the regulations, state clearly the reasons why such departure was necessary.

For the complete regulations of the Department regarding fiscal affairs, see Fiscal Regulations of the United States Department of Agriculture. A copy of these regulations should be in the possession of every employee who incurs an expenditure of Government funds.

317. Allotments.—The allotment scheme is a part of the budget system. The underlying principle involved is that a definite amount of money will be provided for each line of work and the man in charge of the line of work will

be held responsible for the wise expenditure of the money and for the results obtained. In planning work consideration should be given to the funds available, and no work should be planned which will require greater expenditure than is provided in the allotment. The business of the Government should be transacted in as economical a manner as is consistent with efficiency.

318. Property.—Stock supplies are secured, in so far as is practicable, through the Office of Supplies of the Bureau. Field stations make out quarterly requisitions to cover their needs so far as can be anticipated. Lists of stock supplies are furnished to all stations. When it becomes necessary to purchase supplies which are not carried in stock, the purchases should be made on requisitions or purchase orders issued by the Supply Office, except when it is urgently necessary to secure the supplies more promptly. In such cases purchases may be made upon letters of authorization issued to field employees. Office supplies, furniture, and other equipment should not be purchased upon letters of authorization except in cases of extreme necessity. Bids are required for purchases amounting to $50 or more. Informal quotations on purchases of less than $50 should be obtained from 3 or more dealers when practicable.

For detailed information regarding property, see Manual of Property Regulations issued by the Department of Agriculture.

319. Leave.—The amount of leave granted to employees is fixed by law. Employees in Washington are granted 30 days annual leave and not to exceed 30 days sick leave. Employees in the field are granted 15 days annual leave and not to exceed 15 days sick leave. No official of the Department of Agriculture can extend annual or sick leave beyond this time, however meritorious the case may be. Employees in Washington who apply for 1 day or more annual leave should in every case ascertain that the leave application has been approved by the Chief Clerk of the Bureau before entering on the leave. Employees in the field should secure authority from their station chief before taking annual leave. Field station chiefs are authorized to grant not to exceed 5 days annual leave, the written application to be forwarded to the Bureau as soon as practicable. Application for more than 5 days annual leave should be made by employees in the field in sufficient time to have the application approved by the officials in Washington before the leave is taken.

For detailed regulations regarding leave see Administrative Regulations of the United States Department of Agriculture.

320. Correspondence.—The public comes in contact with the Bureau through its correspondence more than in any other way, as a large percentage of the business of the Bureau is so transacted. Each letter written tends to create either a favorable or unfavorable opinion of the Bureau. As the purpose of the Bureau is to render efficient service to the public, it is highly important that all communications be worded in harmony with this purpose. Promptness and courtesy are essential. Concise, clear letters are most effective.

It is generally unnecessary to review in the opening paragraph the subject matter of the letter to which reply is made, as a brief reference to the date, subject, and file number will usually be sufficient to identify the letter. In general, short paragraphs are preferable to long paragraphs. For forms of address in letters to Federal, State, and other officials see Administrative Regulations of the Department of Agriculture.

The decimal system of filing has been adopted by the Bureau. This system provides for the assigning of a number to each topic and each subdivision of a topic, and filing all correspondence relating to each topic in the folder

carrying the number assigned. The correspondence for the Bureau of Chemistry will be divided into the following general classes:

000.—General.
100.—Supplies and equipment.
200.—Finance and accounting.
300.—Personnel.
400.—Foods.
500.—Drugs and chemicals.
600.—Food and Drugs Act.
700.—Technological investigations.
900.—Miscellaneous.

REFERENCES TO OTHER MANUALS AND SOURCES OF INFORMATION.

321. Manuals of information and instructions.—The following manuals of instructions and sources of information are useful in the enforcement of the Food and Drugs Act.

322. Administrative manuals.—(*a*) *Administrative Regulations of the U. S. Department of Agriculture* includes the Department regulations regarding personnel, leaves of absence, attendance at meetings, expositions and fairs, correspondence, publications, printing and binding, patents, estimates of appropriations, projects, financial statements, and the miscellaneous regulations of the Department.

(*b*) *Fiscal Regulations of the U. S. Department of Agriculture* contains the fiscal regulations of the Department. A copy of it should be in the possession of every station, every inspector, and every member of the Bureau of Chemistry who travels or who incurs expenditures. All fiscal transactions should be in strict accordance with the regulations embodied in this manual.

(*c*) *Property Regulations of the U. S. Department of Agriculture* contains the regulations adopted by the Department for the care and accounting of Government property. All Government property should be handled in accordance with the regulations in this manual.

(*d*) *Civil Service Act, Rules, and Executive Orders*, issued by the U. S. Civil Service Commission, contains the Civil Service Act, amendatory laws, and regulations of the Civil Service Commission that have been issued under the Act.

(*e*) *Regulations Concerning Duties of Employees, Official Superiors, Medical Officers, and Others under Federal Compensation Act of September 7, 1916.*—A copy of this manual should be on file in every station. In case of accident or injury to Government employees, the procedure outlined in this manual should be strictly followed; otherwise, the right to claim compensation may be jeopardized.

323. Publications relating to Food and Drugs Act.—(*a*) *Circular 21 of the Office of the Secretary* contains the text of the Food and Drugs Act, and regulations which have been adopted by the Secretaries of the Treasury, Commerce, and Agriculture.

(*b*) *Federal Food and Drugs Act and Decisions*, compiled under direction of the Solicitor, is a bound volume which contains selected court decisions, digest of decisions, and opinions of the Attorney General, in addition to the Food and Drugs Act and regulations.

(*c*) *Circular 136 of the Office of the Secretary* contains a number of standards for food products.

(*d*) *Food Inspection Decisions* are numbered serially. They contain the opinion of the Department in reference to the interpretation of the Food and Drugs Act in its application to specific problems.

(*e*) *Service and Regulatory Announcements and Supplements* contain opinions rendered in connection with the application of the Food and Drugs Act to various products. The supplements contain notices of judgment as issued.

(*f*) *Manual of Procedure for the Guidance of State Health, Food, and Drug Officials*, prepared by the Office of Cooperation, gives general instructions to Federal, State, and city officials regarding procedure in actions under the Federal Food and Drugs Act.

(*g*) *Directory of Federal and State Dairy, Food, Drug, and Feeding Stuff Officials* gives the names and addresses of the principal Federal and State food and drug officials in the United States.

324. Technical methods.—(*a*) *Methods of analysis.*—The official methods of analysis may be found in the Journal of the Association of Official Agricultural Chemists as follows: Vol. I, No. 4, part 2; Vol. II, No. 2, part 1, pages 59 to 154; Vol. II, No. 2, part 2; Vol. II, No. 3, part 2. The last number contains an index and table of contents of all methods. A book containing the official and tentative methods of analysis of the Association of Official Agricultural Chemists, revised to November 1, 1919, is now in press.

(*b*) *American Public Health Association Methods of Bacteriological Analysis.*—Standard methods of bacteriological analysis have been adopted by the American Public Health Association for milk, water, and sewage. They may be found in the following references: Standard Methods of Bacteriological Analysis of Milk, American Journal of the Public Health Association, Vol. VI, No. 12, December, 1916. A book has also been issued by the American Public Health Association entitled Water Analysis—Standard Methods for the Examination of Water and Sewage, American Public Health Association, 1917.

(*c*) *Text Book of Factory Inspection* (in preparation).—This book gives clear and concise instructions as to how to proceed to inspect various classes of food and drug factories or establishments.

325. Other laws and regulations relating to foods and drugs.—(*a*) *Bureau of Animal Industry Order 211*, with amendments (6 amendments, small folders, have issued), covers Meat Inspection Act and Meat Importation Act.

(*b*) *Service and Regulatory Announcement, Bureau of Plant Industry 3*, covers Seed Importation Act with regulations.

(*c*) *Plant Quarantine Act.*

(*d*) *Standard Barrel and Basket Laws.*—An Act to fix standards for climax baskets for grapes and other fruits and vegetables, and to fix standards for baskets and other containers for small fruits, berries, and vegetables and for other purposes (39 Stat. 673). An Act to fix the standard barrel for fruits, vegetables, and other dry commodities (38 Stat. 1186).

(*e*) *Treasury Department, Internal Revenue Regulations No. 35* (text of Harrison or Narcotic Act with regulations).

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